

TRANSPORTATION PROJECT REPORT

DRAFT DESIGN REPORT / DRAFT ENVIRONMENTAL IMPACT STATEMENT / DRAFT 4(f) EVALUATION

VOLUME 5

Appendix B6: Historic and Cultural Resources

November 2016

PIN 5470.22
NYS Route 198 (Scajaquada Expressway) Corridor
Grant Street Interchange to Parkside Avenue Intersection
City of Buffalo
Erie County



ANDREW M. CUOMO
Governor

**Department of
Transportation**

MATTHEW J. DRISCOLL
Commissioner



**U.S. Department of Transportation
Federal Highway Administration**

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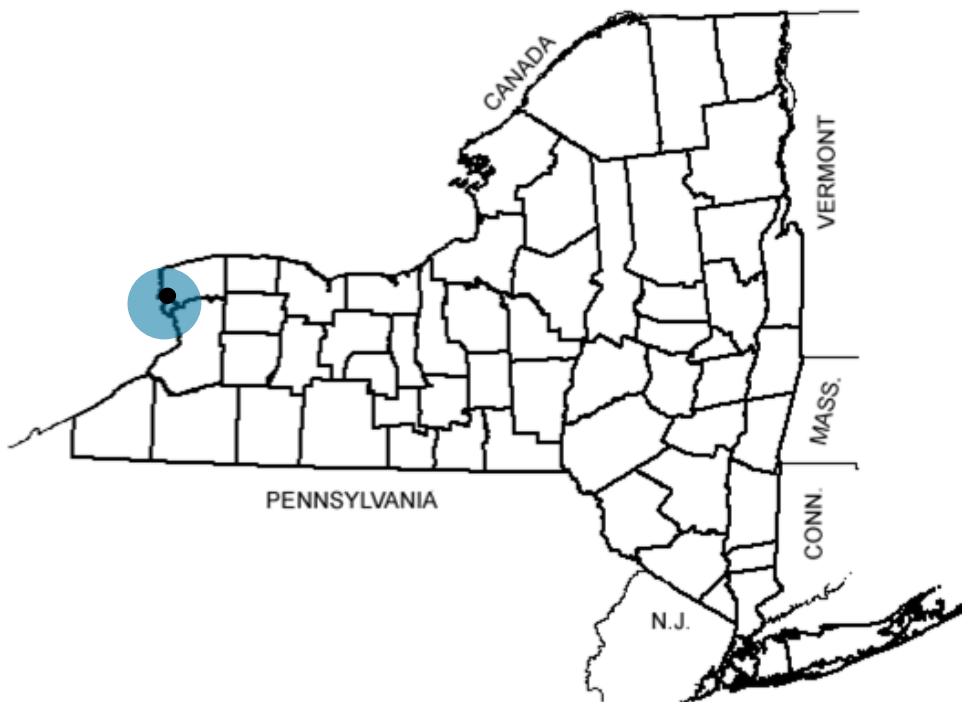
APPENDIX B6

Historic and Cultural Resources

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NYS Route 198 (Scajaquada Expressway Corridor)
Grant Street Interchange to Parkside Avenue Intersection
City of Buffalo
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SECTION 106 FINDING DOCUMENTATION

NYS ROUTE 198, SCAJAQUADA EXPRESSWAY INTERSTATE 190 TO NYS ROUTE 33, KENSINGTON EXPRESSWAY CITY OF BUFFALO, ERIE COUNTY PIN 5470.22.121 / PR#13PR03545

AUGUST 18, 2016

1. Project Description

The Federal Highway Administration (FHWA), in coordination with the New York State Department of Transportation (NYSDOT), proposes a federally funded project in the City of Buffalo, to address existing deficiencies along NYS Route 198 related to context and connectivity, operations and geometry, and infrastructure. The project is an undertaking subject to review under Section 106 of the National Historic Preservation Act, and its implementing regulations, 36 CFR Part 800: *Protection of Historic Properties*.

NYS Route 198 (Scajaquada Expressway) is an Urban Principal Arterial Expressway on the National Highway System connecting Interstate 190 and NYS Route 33 with traffic volumes between 37,000 and 65,000 vehicles per day, a posted speed limit of 30 MPH, and grade separated interchanges. The expressway is at odds with the context of the surrounding culturally rich community resources - acting as a barrier, dividing Delaware Park, and hindering the use of adjacent resources by pedestrians and bicyclists. In addition, the roadway has transportation deficiencies and substandard conditions that result in safety and mobility issues for drivers, bicyclists and pedestrians. In 2015 the speed limit was lowered to 30 MPH and the existing acceleration and deceleration lanes were removed from the expressway on and off ramps as a traffic calming measure.

The purpose of the project is to provide geometric and operational improvements to NYS Route 198 (Scajaquada Expressway) in its current location from just west of the Grant Street interchange to the NYS Route 5 (Main Street overpass), including the segment through Delaware Park. These improvements will be made while maintaining local connectivity and a critical transportation link between I-190 New York State Thruway and NYS Route 33, Kensington Expressway, and providing enhanced compatibility with adjacent land uses.

Project Objectives

- Address identified geometric and operational deficiencies along NYS Route 198 in a manner that promotes traffic calming and enhances safety for users;
- Accommodate vehicular, bicycle and pedestrian travel modes within the project corridor;
- Improve connectivity between both sections of Delaware Park on either side of the roadway and between the park and adjacent neighborhoods;
- Enhance the compatibility of the roadway with the unique characteristics of Delaware Park and adjacent land uses while conserving the natural features of the site to the greatest extent possible; and
- Address identified infrastructure deficiencies, such as deteriorated pavement, antiquated and non-functioning drainage systems, and inefficient street lighting within the project area.

Alternative 2: Boulevard (Build Alternative)

This document summarizes the assessment of the project's effects on historic properties under Alternative 2: Boulevard, the single Build Alternative selected for detailed study in the Environmental Impact Statement (EIS) being prepared for this project.

The Build Alternative would include reclassifying NY Route 198 from an urban expressway into a non-expressway transportation facility with a posted speed limit of 30 MPH and redesigning the corridor to calm traffic and decrease the overall footprint of the paved surface by reducing travel lane widths, removing paved shoulders and constructing a planted median. Additional landscaping improvements would also be incorporated throughout the corridor. The Build Alternative would improve access to Delaware Park, address safety concerns and multimodal deficiencies, enhance the park and visitor experience, and be designed to incorporate features consistent with Olmsted's principals within Delaware Park, as appropriate.

The Build Alternative includes the following elements:

- Ramps at Grant Street, Elmwood Avenue and Delaware Avenue would be replaced with connecting roadways, with a signalized intersection constructed where each connecting roadway meets NYS Route 198.
- A modern roundabout would be constructed at the intersection of NYS Route 198 and Grant Street.
- A new intersection would be created at the entrance to the Buffalo Parks Maintenance Facility.
- The intersection of NYS Route 198 and Parkside Avenue would remain signalized.
- Additional and/or enhanced signalized pedestrian and bicyclist crossing opportunities would be created, at a minimum, between Grant Street and Elmwood Avenue, at Elmwood Avenue, between Iroquois Drive and Mirror Lake, at Delaware Avenue, between Delaware Avenue and Parkside Avenue, and at Parkside Avenue to enhance connectivity and safety.

Area of Potential Effects

As depicted on the map in **Attachment A**, the Area of Potential Effects (APE) for the project incorporates both direct and indirect effects associated with Alternative 2 (Boulevard). NYS Route 198 runs through or adjacent to the National Register Listed Delaware Park for approximately 1.8 miles. The remaining portions of the APE are a mix of recreational parkland, residential neighborhoods, museums, a cemetery, a college campus and commercial development areas. The adjacent residential neighborhoods include the National Register listed Parkside East and Parkside West Historic Districts.

The APE for direct effects extends approximately 2.3 miles (mi) along NYS Route 198 (Scajaquada Expressway) from just west of Grant Street to the NYS Route 5 (Main Street overpass). The width of the APE varies from as little as a few feet on either side of NYS Route 198 to a maximum of a few hundred feet around Hoyt Lake, incorporating the limits of ground distance associated with construction-related activities for the proposed connecting roadways, intersections, new crossings, pavement reconstruction, installation of guiderail and / or concrete barriers and curb offsets, bicycle and pedestrian accommodations, and improvements to the existing stormwater system. Within Delaware Park, the APE for direct effects incorporates the proposed locations of shared use paths.

The APE for the Project was also defined to incorporate potential indirect effects associated with the introduction of visual elements in the setting and viewshed of identified historic properties. The APE for

indirect effects expands beyond the limits of construction to encompass the entirety of Delaware Park and Forest Lawn Cemetery. Additionally, the first row of buildings in the Parkside Subdivision (West) Historic District along Nottingham Terrace, the Parkside Subdivision (East) Historic District along NYS Route 198 and the block of Parkside Avenue from Agassiz Circle to Robie Street are included in the APE for indirect effects.

2. Steps Taken to Identify Historic Properties

Information on properties listed in the National Register of Historic Places was obtained through the Office of Parks, Recreation and Historic Preservation's Cultural Resource Information System (CRIS), and from staff in the Division for Historic Preservation, Archaeology and National Register Units.

Delaware Park, a 376 acre tract of land, is listed in the National Register as a component of the Delaware Park-Front Park System, an element of the Olmsted Parks and Parkway Thematic Resources in the City of Buffalo, Erie County. The Scajaquada Expressway, constructed in the 1950s and 1960s, follows the roadbed of a former park drive along an east - west alignment through the park. The roadway of the Scajaquada Expressway (Route 198) within Delaware Park is considered a non-contributing structure.

In 1986, the Parkside East and Parkside West Historic Districts were nominated to the National Register as additional components of the Olmsted Parks and Parkways Thematic Resources.

Pre-1961 bridges within the project area for the Scajaquada Expressway Corridor were evaluated for National Register eligibility in 2002, as part of the statewide NYSDOT Historic Bridge Inventory.

Additional historic properties, including archaeological resources, were identified through a series of cultural resource surveys conducted between 2004 and 2014, taking into account various changes in the project scope and design during that period.

- 2014 Phase 2 Archaeological Site Examination, PIN 5470.22.121, Downgrading of the Scajaquada Expressway (NY Route 198). State University of New York at Buffalo, Department of Anthropology, Reports of the Archaeological Survey, Vol. 46, No. 9
- 2013 Addendum Archaeological and Architectural Reconnaissance Survey, PIN 5470.22.121, Downgrading of the Scajaquada Expressway (NY Route 198). State University of New York at Buffalo, Department of Anthropology. Reports of the Archaeological Survey Vol. 45, No. 16
- 2010 Phase 2 Archaeological Site Examination, PIN 5470.22.121, Proposed Change of the Scajaquada Expressway into an Urban Arterial. State University of New York at Buffalo, Department of Anthropology. Reports of the Archaeological Survey Vol. 42, No. 20
- 2010 Addendum to Archaeological and Architectural Reconnaissance Survey and Historic Setting Analysis, PIN 5470.22.121, Proposed Change of Scajaquada Corridor into an Urban Arterial. State University of New York at Buffalo, Department of Anthropology. Reports of the Archaeological Survey Vol. 41, No.14
- 2004 Archaeological and Architectural Reconnaissance Survey and Historical Setting Analysis, PIN 5470.14.124, The Proposed Downgrading of the Scajaquada Expressway (NY 198) between

Archaeological Resources

All of the archaeological resources identified within the APE are located within Delaware Park, representing Native American occupations dating to the Precontact period, and historic land use pre-dating the construction of the park in the 1870s. These archaeological sites were determined individually eligible and do not contribute to the characteristics that qualify Delaware Park for the National Register of Historic Places (see Attachment B).

3. Evaluation of Project's Impact on the Identified Historic Properties

The following table provides a summary of identified National Register Eligible (NRE) and Listed (NRL) buildings, structures, archaeological sites, districts, and objects within the APE for the Project, including qualifying characteristics and proposed changes to each property and/or its setting.

Identified Historic Properties within the APE

Site Name and Numbers	NRL or NRE	NR Qualifying Characteristics	Proposed Changes to Property
Olmsted Parks and Parkway Thematic Resources			
Delaware Park (90NR01217)	NRL	Delaware Park-Front Park System. Listed under NR Criterion C in the area of landscape architecture	Minor physical impacts and visual effects due to proposed realignment of Rte 198 between Lincoln Pkwy and Delaware Ave., the removal & realignment of the Delaware Ave on/off ramps, the construction of shared use paths throughout the park, two new shared use path bridges over Scajaquada Creek, and parking lot near Agassiz Circle.
Lincoln Parkway	NRL	Delaware Park-Front Park System. Listed under NR Criterion C in the area of landscape architecture	Minor work within existing roadway
Lincoln Parkway Bridge BIN 2260460 (USN 02940.003841)	NRL	Built 1900. Neo-Classical stone bridge designed by Green and Wicks; design approved by Olmsted Brothers. Contributing resource within Delaware Park.	Bridge to be converted to pedestrian use – resurfacing of the deck to create a uniform walking surface. No alteration of design features.
Parkside Subdivision (East) Historic District 90NR01239 (USN 02940.027678)	NRL	NR Criteria A and C in the areas of architecture, community planning and development, and landscape architecture	First row of properties adjacent to roadway w/in APE; Indirect visual effects due to work on Rte 198 and Parkside Ave.

Site Name and Numbers	NRL or NRE	NR Qualifying Characteristics	Proposed Changes to Property
23 Agassiz Circle, NE side John H. Eckhardt House	NRL	Ca. 1906 residence, American Four Square. Contributing resource, Parkside East Historic District.	Minor strip taking for proposed right-of-way acquisition.
Agassiz Circle 90NR01239	NRL	Contributing streetscape of the Parkside East Historic District, associated with F.L. Olmsted's 1876 and c. 1886 plans	Proposed pedestrian crossings; parking lot in NE quadrant
Parkside Subdivision (West) Historic District 89NR00003 (USN 02940.027680)	NRL	NR Criterion C in the areas of architecture and landscape architecture	First row of properties adjacent to roadway w/in APE; indirect visual effects due to work on Rte 198.
Other Historic Properties			
Spirit of Womanhood statue	NRE	Individually Eligible under NR Criterion C, work of a master. The statue is located within Delaware Park, but is not a contributing resource.	Proposed relocation within the park to accommodate the new alignment of Rte 198 & allow for construction of pedestrian paths.
Albright-Knox Art Gallery 1285 Elmwood Avenue 90NR01226 (USN 02940.000025)	NRL	Listed under NR Criterion C in the areas of architecture and art.	Potential indirect visual effects due to work on NYS 198 and on Iroquois Drive.
Forest Lawn Cemetery 90NR03149 (USN 02940.027691)	NRL	NR Criterion C in the areas of landscape architecture, architecture, sculpture, and funerary art. Statewide significance	Indirect visual effects due to work on Rte 198.
Scajaquada 1, Locus 2 (USN 02940.023696)	NRE	NR Criterion D – potential to yield information important in local and regional pre-contact period and history	Construction of new intersection will destroy Locus 2 (non-contributing archaeological deposits). Locus 1 will be avoided.
*Scajaquada 4 (USN 02940.025582)	NRE	NR Criterion D - potential to yield information important in local and regional pre-contact period	Construction of barrier wall may cause physical impacts to the site.
Scajaquada 5 (USN 02940.025583)	NRE	NR Criterion D	No change
*Scajaquada 8 (USN 02940.025586)	NRE	NR Criterion D - potential to yield information important in local and regional pre-contact period and history	Construction of the shared use paths will impact site.
Scajaquada 9 (USN 02940.025587)	NRE	NR Criterion D	No change
Scajaquada 10 (USN 02940.025588)	NRE	NR Criterion D	No change
*Scajaquada 11 (USN 02940.025589)	NRE	NR Criterion D	Impacts associated with the realignment of Rte 198.

Site Name and Numbers	NRL or NRE	NR Qualifying Characteristics	Proposed Changes to Property
*Scajaquada 13 (USN 02940.025591)	NRE	NR Criterion D - potential to yield information important in local and regional pre-contact period and history	Construction of the shared use paths will impact site.
*Scajaquada 14 (USN 02940.025592)	NRE	NR Criterion D - potential to yield information important in local and regional pre-contact period	Re-construction of the intersection of Iroquois Drive and NY 198 on/off ramp may impact site.
54 Meadowview Place 2940.024604	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
42 Meadowview Place 2940.024602	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
36 Meadowview Place 2940.024601	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
28 Meadowview Place 2940.024600	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
22 Meadowview Place 2940.024599	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
18 Meadowview Place 2940.024598	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
14 Meadowview Place 2940.024597	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
66 Agassiz Circle 2940.024596	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
60 Agassiz Circle 2940.024595	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
54 Agassiz Circle 2940.024594	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
50 Agassiz Circle 2940.024593	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
44 Agassiz Circle 2940.024592	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
40 Agassiz Circle 2940.024591	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
18 Agassiz Circle Medaille College 2940.006735	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
24 Agassiz Circle 2940.024590	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
2 Agassiz Circle 2940.024589	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
85 Humboldt Parkway 2940.024585	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed

Site Name and Numbers	NRL or NRE	NR Qualifying Characteristics	Proposed Changes to Property
91 Humboldt Parkway 2940.024584	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
95 Humboldt Parkway 2940.024583	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
103 Humboldt Parkway 2940.024582	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
107 Humboldt Parkway 2940.024581	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
111 Humboldt Parkway 2940.024580	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
117 Humboldt Parkway 2940.024579	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
121 Humboldt Parkway 2940.024578	NRE	Agassiz Circle Historic District (Proposed)	Minor changes in viewshed
Rockwell Hall at Buffalo State College 1300 Elmwood Avenue	NRE		Minor changes in viewshed

* Archaeological Site subject to potential Adverse Effect

The Build Alternative proposes a number of physical changes associated with direct and indirect effects to Delaware Park and other identified historic properties within the APE for the Project.

Bicycle and Pedestrian Network

The existing controlled-access expressway bisects Delaware Park, separating many of the cultural and recreational facilities, with only limited opportunities for bicyclists and pedestrians to cross the expressway to access either side. There is only one pedestrian crossing in the one mile section between Elmwood Avenue and Delaware Avenue, and no pedestrian crossings in the one mile section between Delaware Avenue and Parkside Avenue. The only connections between the western and eastern sections of the park are sidewalks on the Delaware Avenue overpass.

To accommodate bicycle and pedestrian modes of travel within the project corridor, Alternative 2 (Boulevard) includes:

- The installation of new, signalized, at-grade pedestrian crossings of NYS Route 198 at five locations, and enhancement of the existing pedestrian crossings at the Parkside Avenue intersection.
- The installation of new curb ramps, crosswalks, and refuge islands at crosswalk locations along NYS Route 198 and affected intersections.
- The development of new connections to the Jesse Kregal Pathway and other shared use paths within Delaware Park, resulting in a separate, parallel, off-roadway system for pedestrian and bicyclists throughout the project limits.
- The installation of new 10 foot wide shared use paths and 5 foot wide paths at several locations along NYS Route 198 from Grant Street to Parkside Avenue. Along South Meadow Drive, a two-way

cycle track is proposed, with a buffer separated pedestrian walkway (see **Attachment C**). Within Delaware Park, new paths would follow the historic alignments of original paths where possible.

Scajaquada Site 1 and **Scajaquada Site 14** may be impacted by construction of the new intersections of Delaware Avenue and NYS Route 198 (Site 1) and Iroquois Drive (Site 14). The project is expected to cause direct physical impacts to Scajaquada Site 1, Locus 2, due to the physical constraints of Delaware Avenue, NYS Route 198 and Forest Lawn Cemetery. Locus 2, where archaeological deposits were encountered in a disturbed context, does not contribute to the characteristics that qualify the site as a whole for National Register eligibility. Scajaquada Site, 1 Locus 1 will be avoided when the shared use paths are installed.

Scajaquada Site 11 will be impacted by the realignment of NYS Route 198. The realignment is proposed to replicate the original Olmsted park road through Delaware Park.

Scajaquada Site 8 and **Scajaquada Site 13** will be impacted by the construction of shared use paths. Every opportunity to tighten up the roadway and pathway footprint has been taken in order to minimize impacts to the archaeological sites. However, the presence of existing structures and facilities in the corridor has limited NYSDOT's ability to completely avoid some archaeological sites. Specifically, the locations of Nottingham Terrace and the Delaware Park tennis courts limit the options to construct a safe shared use path for pedestrians and bicyclists in the vicinity of Scajaquada Site 8.

Likewise, the presence of NYS Route 198 and Hoyt Lake restrict the location of the proposed shared use path near Scajaquada Site 13. Many of the artifacts recovered from Scajaquada Sites 8 and 13 were from the upper foot of the soil column. The depth of construction required for the shared use paths is unknown at this time, pending details to be developed in final design. While an artificial berm would potentially provide a buffer for archaeological deposits, any such feature would represent a visual intrusion, altering the existing landscape within the park.

Scajaquada Site 4 may be impacted by construction of a safety barrier between NYS Route 198 and Delaware Park, to protect pedestrians within the park from vehicular traffic. The dimensions, materials, and surface treatment of the safety barriers are currently under development.

The project will avoid impacts to Scajaquada Sites 5, 9 and 10.

Spirit of Womanhood Statue

The National Register Eligible "Spirit of Womanhood" statue will be moved from its current site due to the realignment of the roadway and construction of the new shared use paths and will be placed in a nearby location that will allow improved access and visibility. The statue was determined to be National Register eligible in 2013, based on criterion C (the work of a master). Since the statue post-dates the period of significance of the park, and is not part of the historic designed landscape, the proposed relocation will not alter contributing features or spatial relationships that contribute to the qualifying characteristics of Delaware Park.

4. Basis for Recommended Project Finding

Archaeological Resources

Applying the Criteria of Adverse Effect (36 CFR Part 800.5(a)(1)) the Project will have an “**Adverse Effect**” as a result of anticipated physical impacts on National Register eligible archaeological properties located within the APE in Delaware Park: Scajaquada Sites 4, 8, 11, 13 and 14. The proposed minor realignment of NYS Route 198, the construction of new shared use paths, the reconstruction of the intersections of NYS Route 198 with Iroquois Drive and Delaware Avenue and the construction of a safety barrier along South Meadow Drive within Delaware Park, will result in the physical destruction of intact archaeological deposits. These sites possess a high degree of integrity and the potential to provide information important in the Precontact period and history of the region.

Delaware Park

The Scajaquada Expressway was originally constructed in several stages (separate projects) during the 1950s. The easternmost section is located within Delaware Park and was constructed in 1952 under a contract identified as the “Humboldt Parkway Extension Arterial,” which connected the City of Buffalo’s Humboldt Parkway from its terminus at Parkside Avenue westward to Delaware Avenue. Right-of-way was not acquired from the City of Buffalo for this first section of highway through Delaware Park.

Subsequent contracts in 1958 and 1959 connected the “Humboldt Parkway Extension” project westward to I-190 and completed the facility that exists today as Scajaquada Expressway. The NYSDOT acquired highway right-of-way for the 1958 expansion of the Scajaquada Expressway through the adjacent portion of Delaware Park; however, NYSDOT did not acquire right-of-way for portions of the expressway previously constructed through the eastern portion of the park.

Thus, the western portion of the expressway in Delaware Park, beginning just west of the Delaware Avenue interchange and extending westward, lies on highway right-of-way owned by NY State, while the eastern portion is located within an operational right-of-way with no official ownership boundaries.

The Scajaquada Expressway, as it currently exists, is paved with wide shoulders, interchanges and limited pedestrian connectivity between either side of the park. It is considered to be at odds with its rich cultural and recreational surroundings, acting as a physical barrier between the two sides of Delaware Park and adjacent land uses. The Project proposes to remove existing features such as ramps, grade separations, overhead sign structures, median barriers, interchanges, and other typical expressway features.

Under the Build Alternative (Boulevard), ramps at Grant Street, Elmwood Avenue, and Delaware Avenue would be replaced with connecting roadways. Signalized intersections or roundabouts would be constructed where each connecting roadway meets NYS Route 198. New bicycle and pedestrian accommodations, as well as improved links to the existing pedestrian and bicycle features within the park, corridor and the surrounding communities, will be incorporated. Safety barriers will be installed along NYS Route 198 to prevent vehicles from encroaching into the park.

Construction of the proposed intersections and crossings to improve access to Delaware Park and between the two sides of Delaware Park would require approximately 1.4 acres of green space in the park. In addition, the Project would involve the purchase of right-of-way to establish a highway

boundary where none currently exists through the eastern portion of the park, and proposes permanent easements to maintain highway drainage structures within the project limits (approximately 0.3 acre). However, the Project would also remove approximately 17.3 acres of existing pavement and hardscape, returning the land to green space within Delaware Park, resulting in a net increase of approximately 2.7 acres to the park.

The minor acquisition of land within Delaware Park will not diminish the integrity of location, design, setting, feeling, or association of the National Register listed property. In addition to the net increase in green space, the right-of-way acquisition will be offset by the beneficial effects resulting from the removal of existing expressway features from the park.

Measures Taken to Avoid and Minimize Adverse Effects

Consistent with the project objective to enhance the compatibility of the roadway with the unique characteristics of Delaware Park and adjacent land uses, the Build Alternative incorporates elements designed to retain the historic character and integrity of Delaware Park and other historic properties.

Existing overhead and other expressway-style signs within the project limits would be removed and replaced with ground mounted signs. Overhead signing would be restricted to lane use and street name applications, primarily at signalized intersections and crossing. A corridor-wide approach to signing would be explored during detailed design to promote consistency and aesthetics.

On NYS Route 198, the existing lights, poles and arms would be removed and replaced with decorative light poles and fixtures to match those recently installed on the bridge carrying Elmwood Avenue over NYS Route 198 and other roadways within the vicinity of Delaware Park, consistent with the agreed-upon style for the Buffalo Olmsted Parks (DOT PIN 5470.30; OPRHP 14PR01509).

The Lincoln Parkway Bridge (BIN 2260460) will be converted for non-vehicular, pedestrian/ bicycle use through resurfacing to create a uniform surface. There will be no changes to design features of the Neo-Classical stone bridge, a contributing resource in Delaware Park.

The proposed bicycle and pedestrian network incorporates a 10 foot wide shared use path and 5 foot wide pedestrian path that follow the layout and alignment of the Olmsted-designed circulation system in the park, where possible (see the 1899 *General Plan for Delaware Park*, **Attachment D**).

As an objective of the Project, the Build Alternative will improve connectivity between both sections of Delaware Park on either side of NYS Route 198 and between the park and adjacent neighborhoods. Non-vehicular travel to and within the park will be improved as a result of the proposed new pedestrian crossings, connecting roadways and pedestrian / bicycle network that will provide safe access from the residential neighborhood represented by the Parkside East Historic District.

An part of Olmsted's comprehensive master plan for parks and parkways in the city of Buffalo (1876), the Parkside subdivision was designed as a buffer between the green space of Delaware Park and urban development beyond, "... to provide an ideal residential environment, partaking of the aesthetic amenities of adjacent public parkland" (National Register of Historic Places Inventory-Nomination Form, 1986: Item no. 4, p. 1). As a result of substantial connectivity improvements between the two sides of Delaware Park and improved access to the entire park from the surrounding communities, the Project

will enhance the historical association between Delaware Park and the Parkside district, and the setting of Delaware Park within the context of Olmsted's master plan.

Other Historic Properties

Identified historic properties that are subject to indirect, visual effects consist of Delaware Park, Rockwell Hall at Buffalo State College, the Albright-Knox art gallery, the Buffalo History Museum, the Parkside Subdivision (West) Historic District, Forest Lawn Cemetery, the Parkside Subdivision (East) Historic District and residential buildings on Meadowview Place, Agassiz Circle and Humboldt Parkway. The visual effects to the setting or viewshed of these historic properties are associated with the removal of existing expressway infrastructure and features within the NYS Route 198 corridor, the construction of a new pedestrian bridge over Scajaquada Creek and the Jesse Kregal path at the western end of Delaware Park and construction on Iroquois Drive, NYS Route 198 and Parkside Avenue.

The visual effects associated with these changes will not alter contributing features of the setting or diminish the integrity of location, design, materials, or setting of identified historic properties. As a result of the Boulevard alternative, proposed changes associated with the NYS Route 198 corridor will result in positive visual impacts to historic properties adjacent to the Scajaquada Expressway Corridor, compared to existing conditions.

23 Agassiz Circle, Parkside East Historic District

A minor right-of-way acquisition is proposed at 23 Agassiz Circle (northeast quadrant). The property, an American Four Square style residence built ca. 1906, is a contributing resource within the Parkside East Historic District. The proposed strip taking (10 feet by 174 feet) would allow for construction activities associated with the reconstruction of Parkside Avenue in its existing location and the replacement of the existing 4 foot wide poured concrete sidewalk with a slightly wider sidewalk (5 feet wide). These activities will not alter the characteristics that qualify the property as a contributing resource, and will not affect the integrity of the National Register Listed historic district as a whole.

Resolution of Adverse Effects

To resolve adverse effects on identified archaeological properties, a Memorandum of Agreement (MOA) will be developed in consultation among the FHWA, New York State Historic Preservation Office (SHPO), NYSDOT, Seneca Nation of Indians (SNI), Tonawanda Seneca Nation (TSN) and Seneca Cayuga Tribe of Oklahoma. Data Recovery by the New York State Museum's Cultural Resource Program is proposed at Scajaquada 4, 8, 11, 13 and 14, the National Register Eligible sites that may be adversely affected due to disturbance by construction activities. The Data Recovery will be implemented in accordance with an approved Data Recovery Plan to retrieve important data from archaeological sites in advance of the construction of the project. The SHPO and Tribal Nations will be provided an opportunity to review and comment on the Draft Data Recovery Plan along with the Draft MOA.

5. Public Involvement

Through all phases of the process, a number of public involvement measures have been undertaken. These included stakeholder group meetings May 31, 2007, September 13, 2007, April 23, 2008, April 29, 2009, April 28, 2011 and February 15, 2012. A NEPA Scoping Meeting was held on November 28, 2007 with a repeat briefing on December 10, 2007. A Buffalo State College Campus Update was held on July

9, 2009. Three Interactive Design Workshops were held on September 16, 2009, November 4, 2009 and April 29, 2010. Two meetings were held with the Buffalo Olmsted Parks Conservancy Board on May 26, 2011 and March 26, 2012. On March 16, 2012 a meeting with Buffalo Complete Streets Coalition/Bicycle and Pedestrian Group representatives took place. A public meeting was held September 16, 2015.

6. Section 106 Consulting Parties

Tribal Nations

The NYSDOT provided Tribal Nations participating in Section 106 consultation for the Project with the following information, as an opportunity for input on the identification of historic properties.

- The 2010 Addendum to Archaeological and Architectural Reconnaissance Survey and Historic Setting Analysis and 2010 Phase 2 Archaeological Site Examination reports were sent to the Seneca Nation of Indians (SNI) Tribal Historic Preservation Officer (THPO) on November 18, 2010.
- The 2013 Addendum Archaeological and Architectural Reconnaissance Survey report was delivered to the SNI and the Tonawanda Seneca Nation (TSN) on January 10, 2014.
- On September 5, 2014 the 2014 Phase 2 Archaeological Site Examination report was sent to the SNI and TSN. NYSDOT received an e-mail from SNI THPO on September 9, 2014 concurring with the recommendations in the report. On October 16, 2014 an e-mail was sent to Chief Darwin Hill of the TSN to verify that the report was received.

A Section 106 consultation meeting was held on March 23, 2016.

Other Consulting Parties

By letter dated March 7, 2016, the FHWA approved the following individuals and organizations to be consulting parties to the Section 106 process for the Project:

1. Mayor Byron Brown, City of Buffalo
2. County Executive Mark Poloncarz, Erie County
3. Mr. Brian Dold, Buffalo Olmsted Parks Conservancy
4. Ms. Sally Treanor, Buffalo and Erie County Historical Society
5. Mr. David Lampe, Delaware Park Steering Committee
6. Mr. Dennis Crahen, The Forest Lawn Cemetery
7. Mr. Robert J. Kresse, Niagara River Greenway Commission
8. Mr. Bernhard Wagner, Parkside Community Association
9. Ms. Cynthia Van Ness, The Preservation Coalition
10. Ms. Tania Werbizky Preservation League of New York State
11. Ms. Monica Pellegrino Faix, M.U.P., Richardson Center Corporation
12. Dr. Janne Siren, Albright-Knox Art Gallery
13. Dr. Katherine S. Conway-Turner, SUNY Buffalo State College
14. Dr. Donna Fernandes, Buffalo Zoo
15. Mr. Tim Tielman, Campaign for the Greater Buffalo History, Architecture and Culture
16. Mr. Scott Abrams, Seneca Nation of Indians Tribal Historic Preservation Office
17. Chief Darwin Hill, Tonawanda Band of Seneca
18. Paul Barton, Seneca-Cayuga Nation Tribal Historic Preservation Officer

A Section 106 Consulting Parties meeting was held on March 22, 2016.

7. Attachments

- A. APE MAP
- B. Archaeological Site Location Maps
- C. Bike and Pedestrian Network
- D. 1899 General Plan of Delaware Park

8. References Cited

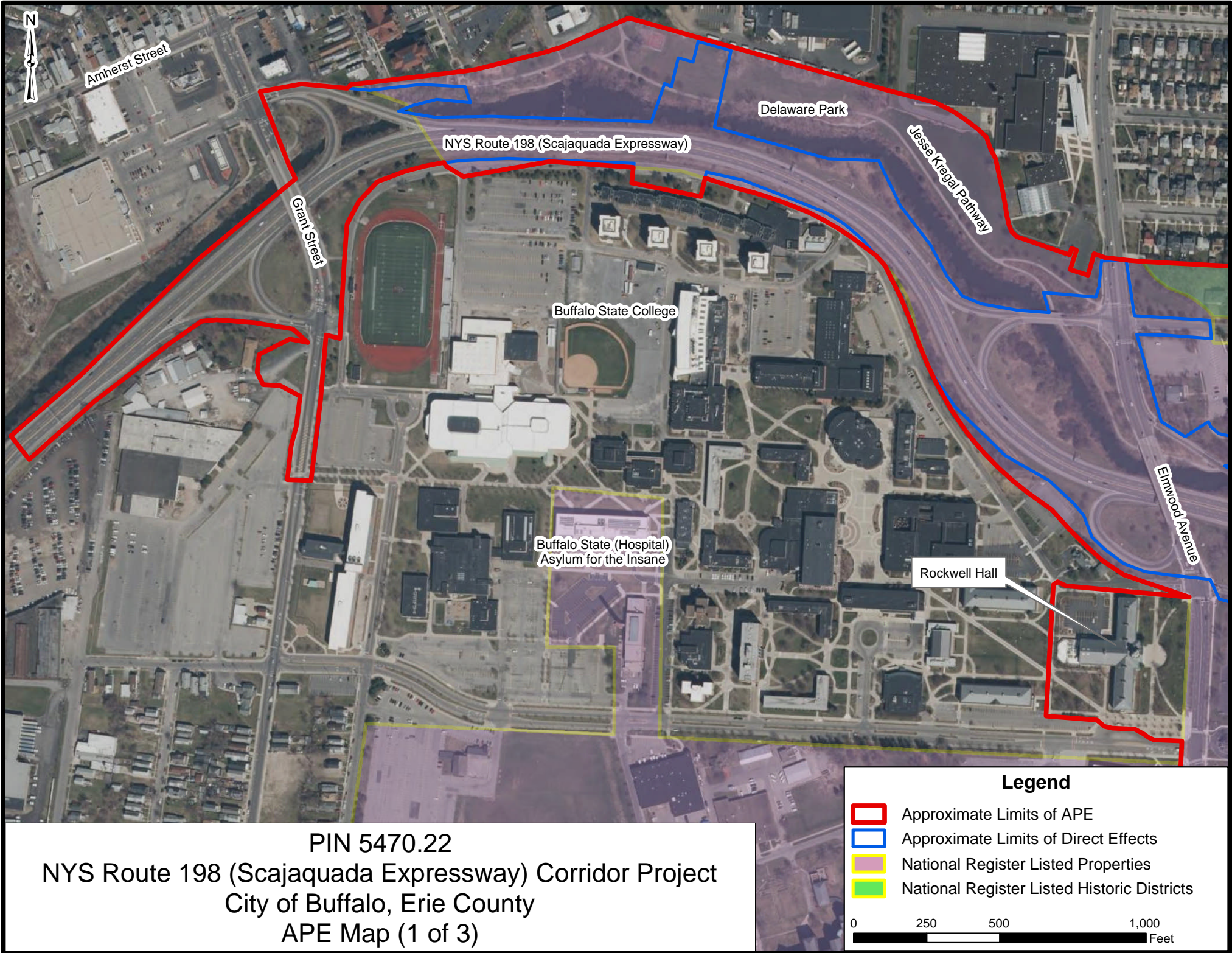
- 2002 *Final Report: Evaluation of National Register Eligibility. Task C3 of the Historic Bridge Inventory and Management Plan.* Prepared by Mead & Hunt and Allee, King, Rosen & Fleming, Inc. for the New York State Department of Transportation and Federal Highway Administration, Albany, New York.
- 1982 *Olmsted Parks and Parkways (Thematic Resources).* National Register of Historic Places Inventory – Nomination Form, United States Department of the Interior, National Park Service.
- 1986 *Olmsted Parks and Parkways (Thematic Resources), Parkside East Historic District, Buffalo, N.Y.* National Register of Historic Places Inventory – Nomination Form, United States Department of the Interior, National Park Service.

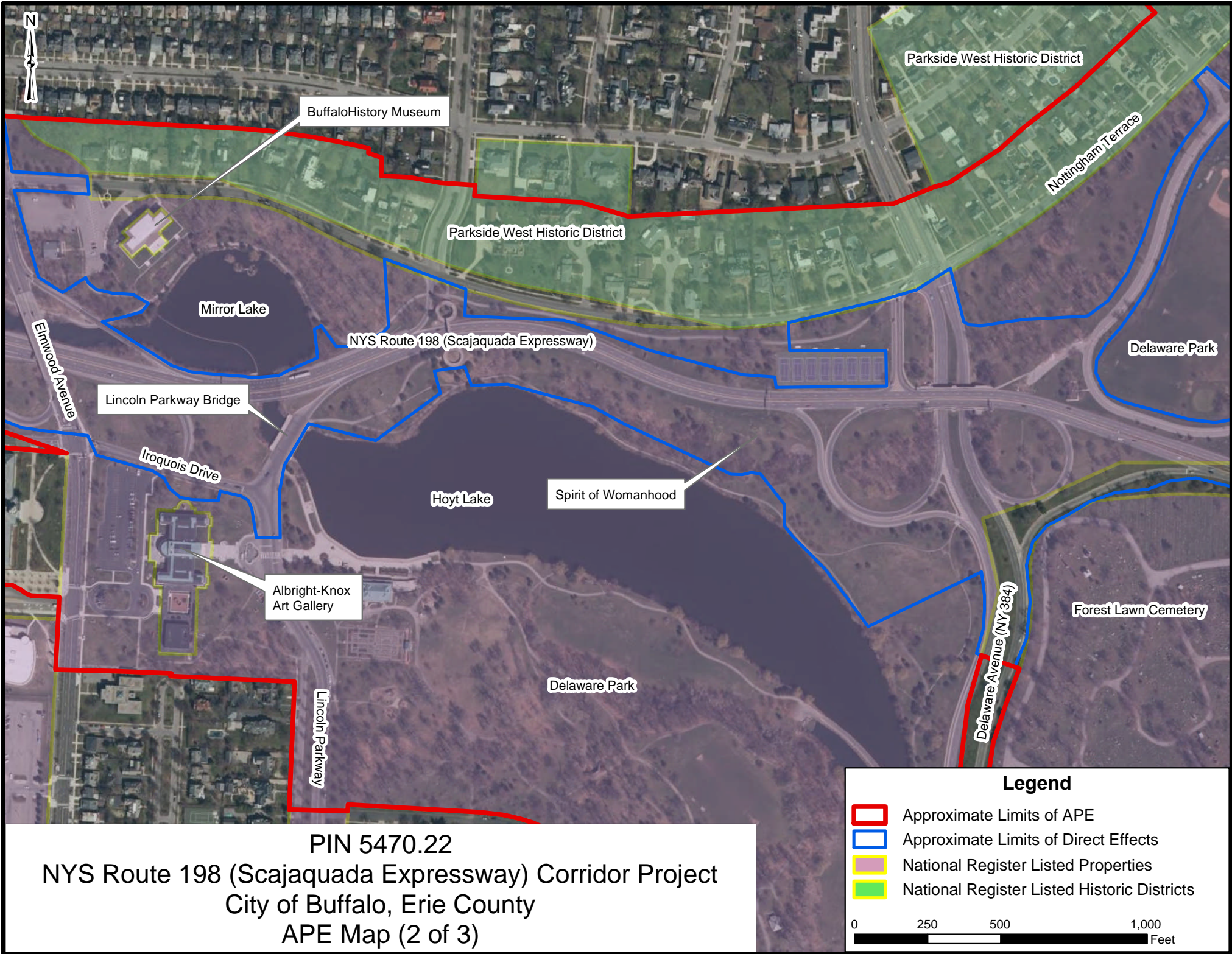
NYS Route 198 (Scajaquada Expressway) Corridor
PIN 5470.22
SHPO # 13PR03545

Finding Document

Attachment A: APE MAP

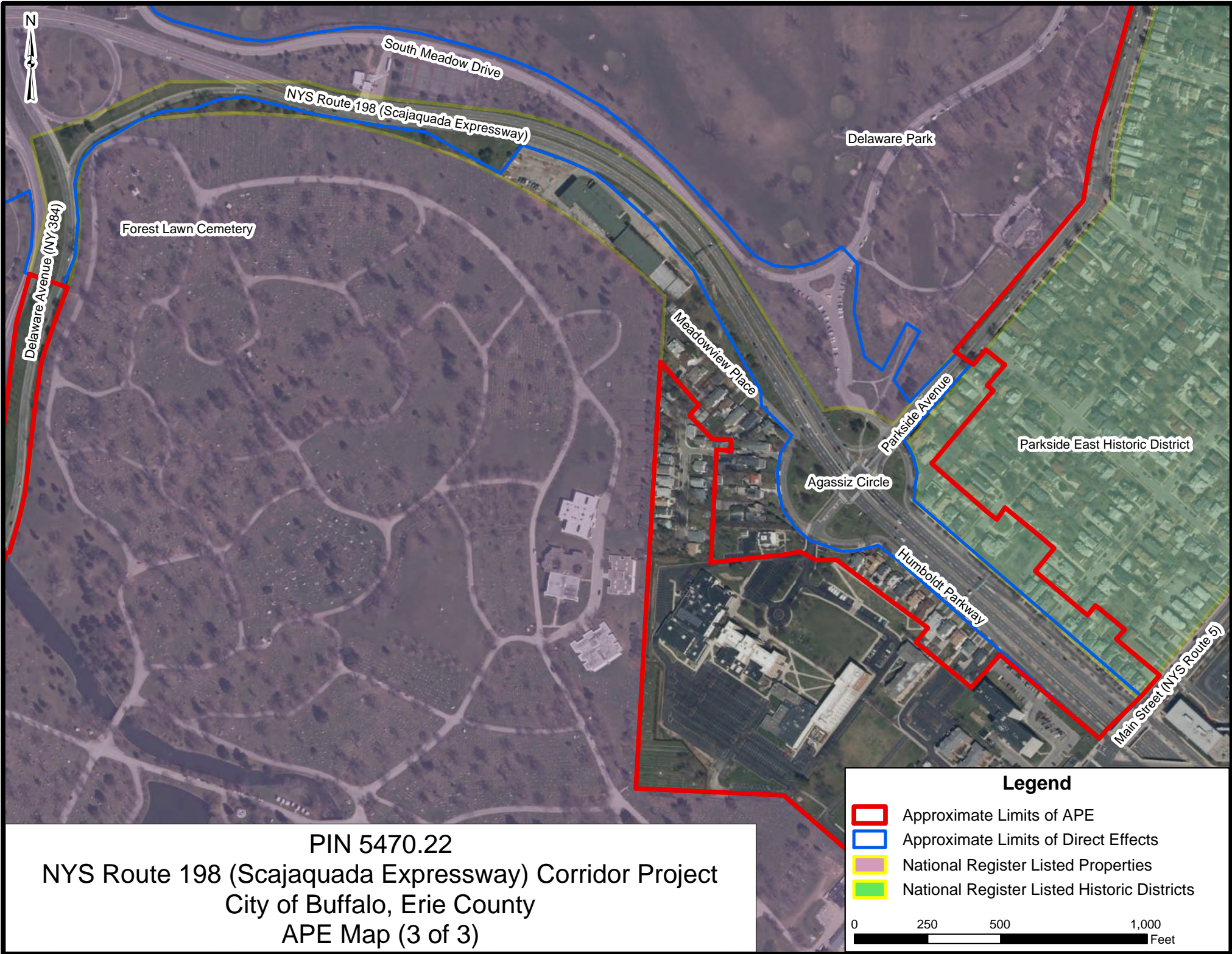






PIN 5470.22

NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
APE Map (2 of 3)



NYS Route 198 (Scajaquada Expressway) Corridor
PIN 5470.22
SHPO # 13PR03545

Finding Document

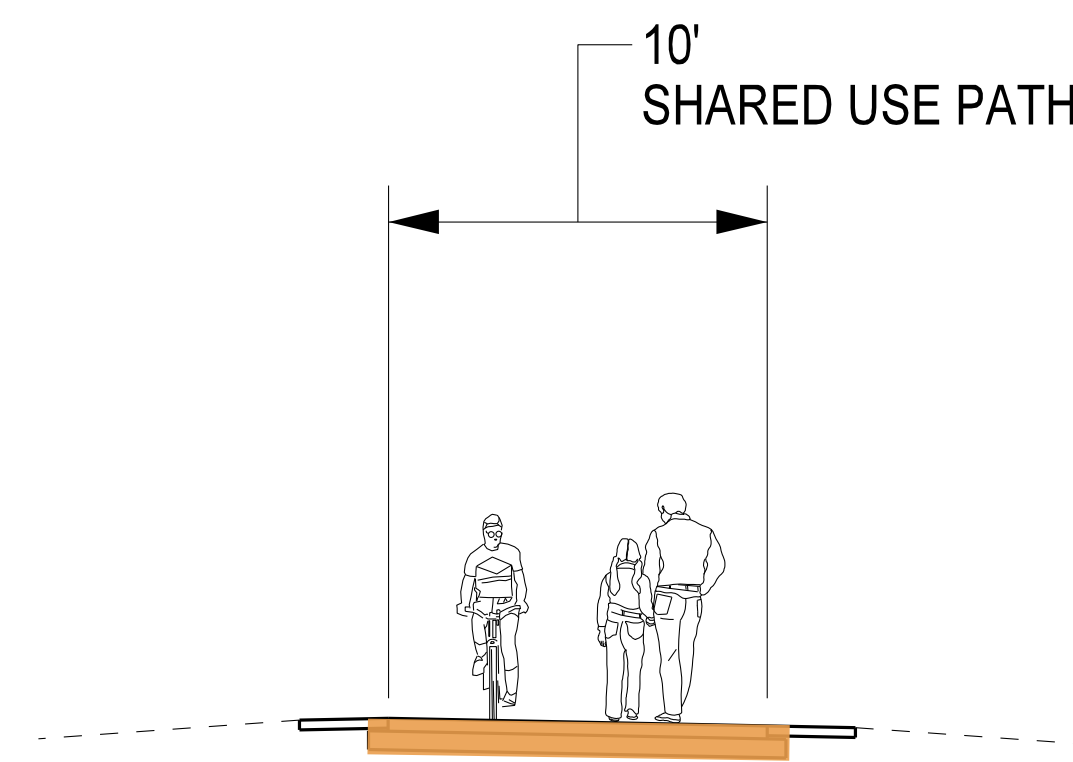
Attachment B: Archaeological Site Location Maps

Not for Public Distribution

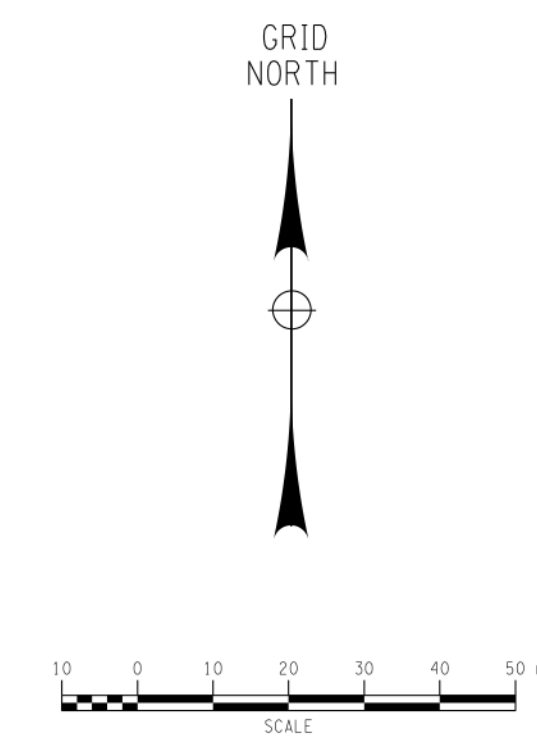
NYS Route 198 (Scajaquada Expressway) Corridor
PIN 5470.22
SHPO # 13PR03545

Finding Document

Attachment C: Bike and Pedestrian Network



TYPICAL SECTION
SHARED USE PATH
NO SCALE



LEGEND	
	5' FOOT PATH
	5' FOOT PATH ON HISTORIC ALIGNMENT
	10' SHARED USE PATH
	10' SHARED USE PATH ON HISTORIC ALIGNMENT
	SOUTH MEADOW DRIVE TWO-WAY CYCLE TRACK WITH BUFFER SEPARATED PEDESTRIAN WALKWAY

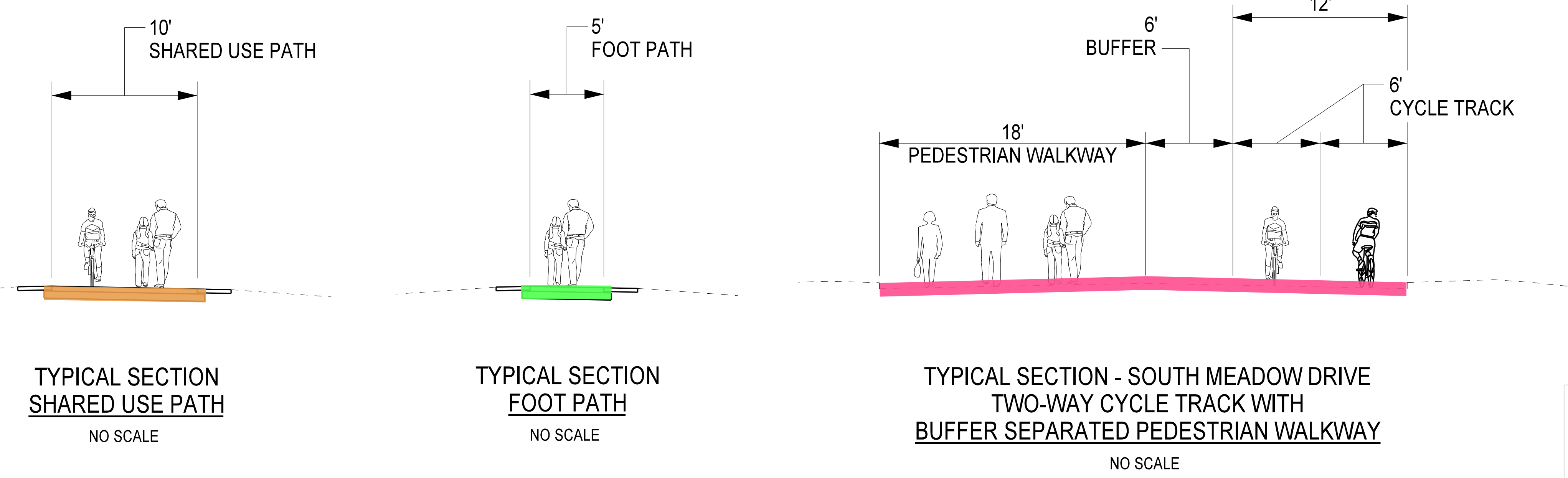


SHARED USE PATH

Match Line



Match Line

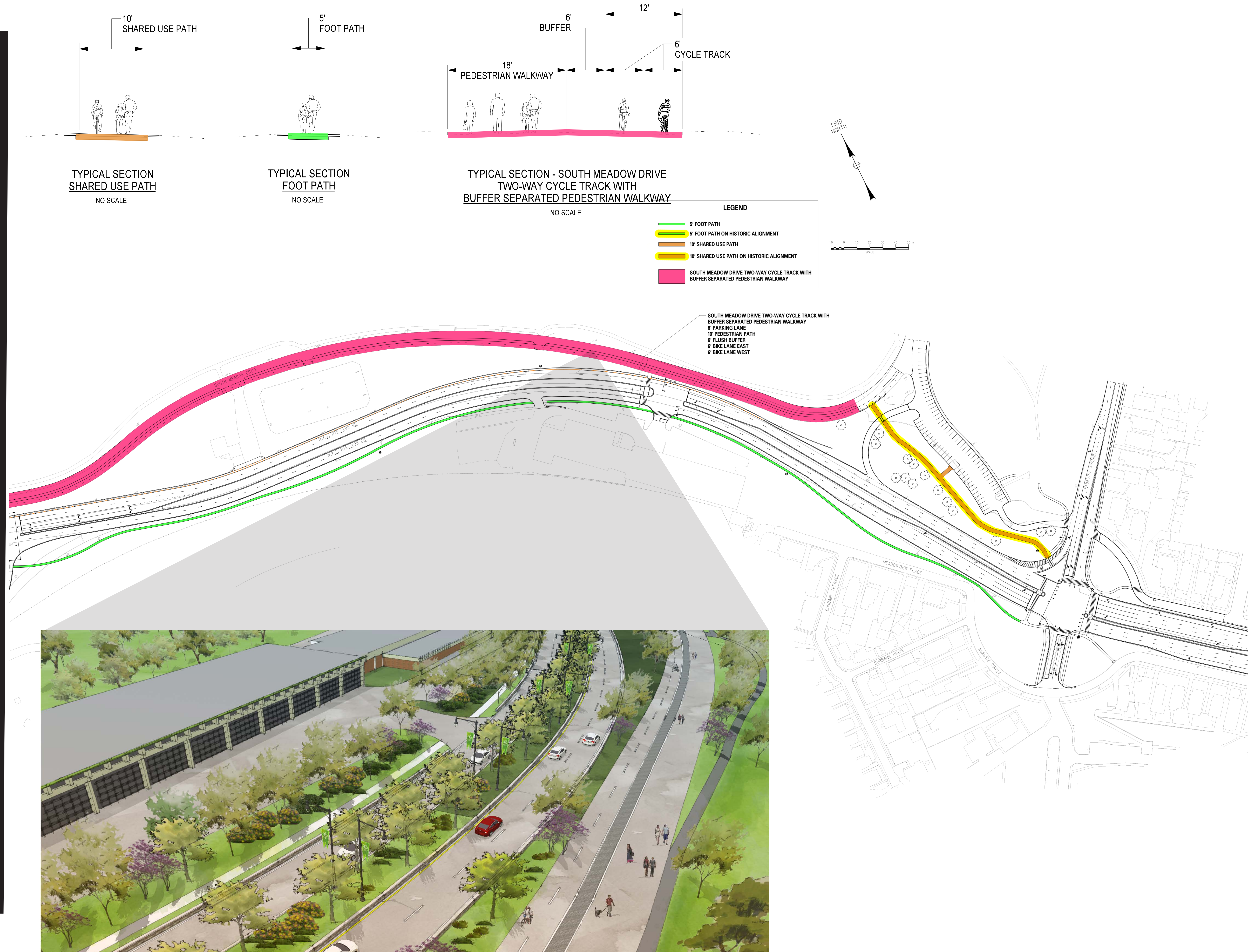


- LEGEND**
- 5' FOOT PATH
 - 5' FOOT PATH ON HISTORIC ALIGNMENT
 - 10' SHARED USE PATH
 - 10' SHARED USE PATH ON HISTORIC ALIGNMENT
 - SOUTH MEADOW DRIVE TWO-WAY CYCLE TRACK WITH BUFFER SEPARATED PEDESTRIAN WALKWAY
 - CURRENTLY UNDER CONSTRUCTION



PEDESTRIAN CONNECTION AT IROQUOIS DRIVE

Match Line

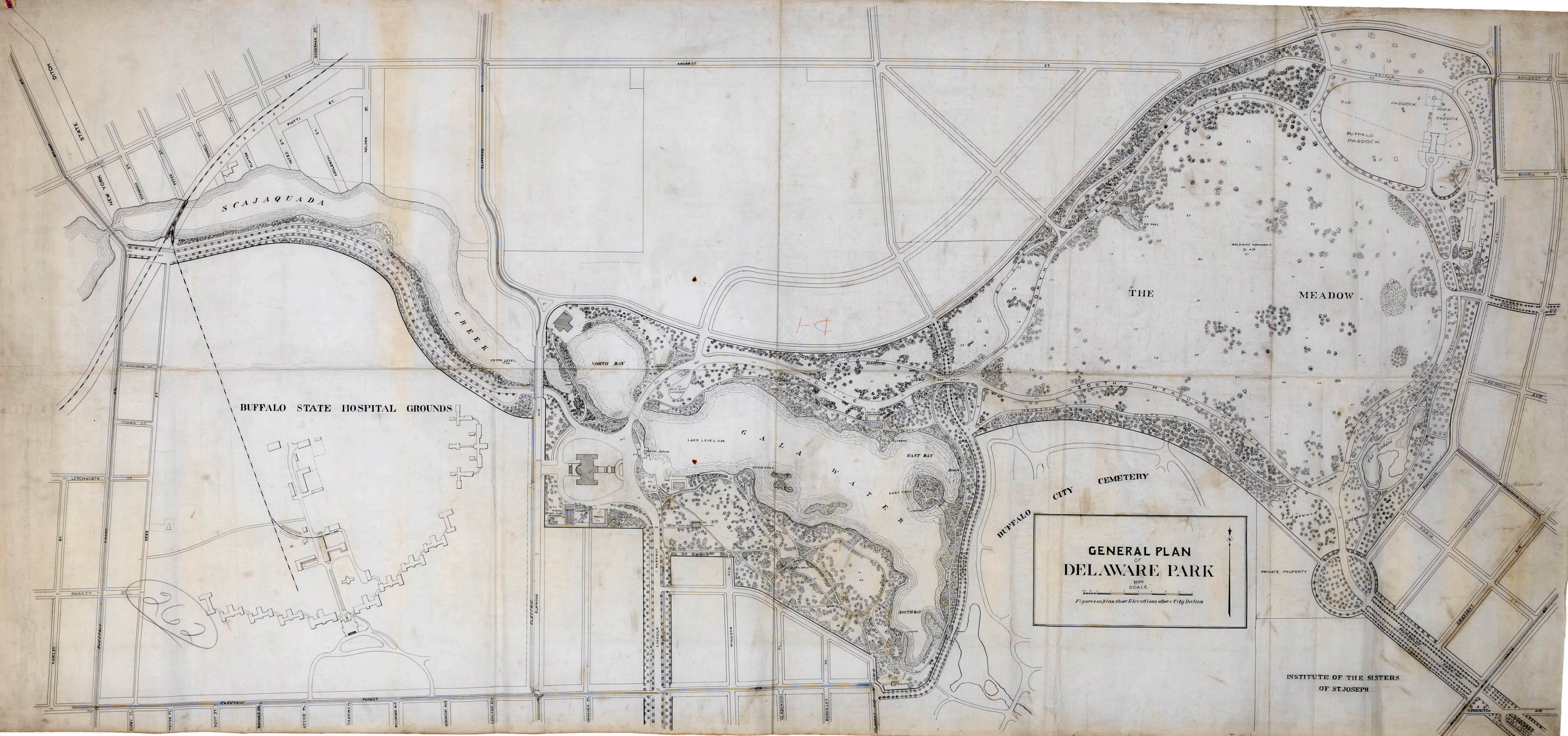


SOUTH MEADOW DRIVE, NYS ROUTE 198, AND FOOT PATH

NYS Route 198 (Scajaquada Expressway) Corridor
PIN 5470.22
SHPO # 13PR03545

Finding Document

Attachment D: 1899 “General Plan of Delaware Park”



BUFFALO STATE HOSPITAL GROUNDS

THE MEADOW

BUFFALO CITY CEMETERY

GENERAL PLAN
OF
DELAWARE PARK

1899
SCALE
Figures on plan show Elevations above City Datum

INSTITUTE OF THE SISTERS
OF ST. JOSEPH

D. 11-1

MEMORANDUM OF AGREEMENT (MOA)
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION
THE NEW YORK STATE HISTORIC PRESERVATION OFFICE
AND
THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION
PURSUANT TO 36 CFR § 800.6(a)
FOR
THE RECOVERY OF SIGNIFICANT ARCHAEOLOGICAL INFORMATION
From Scajaquada Site 4 (USN 02940.025582), Scajaquada Site 8 (USN 02940.025586),
Scajaquada Site 13 (USN 02940.025591) and Scajaquada Site 14 (USN 02940.025592)
PIN 5470.22
NYS ROUTE 198 (SCAJAQUADA EXPRESSWAY) CORRIDOR
CITY OF BUFFALO, ERIE COUNTY
13PR03545

WHEREAS, the New York State Department of Transportation (NYSDOT), in coordination with the Federal Highway Administration (FHWA) proposes the NYS Route 198 (Scajaquada Expressway) Corridor Project, a federally-funded action in the City of Buffalo, Erie County; and

WHEREAS, the purpose of the project is to provide geometric and operational improvements to NYS Route 198 in its current location from the Grant Street interchange to the intersection of Parkside Avenue, including the segment through Delaware Park.

WHEREAS, these improvements will be made while maintaining local connectivity and a critical transportation link between I-190 and NYS Route 33, and providing enhanced compatibility with adjacent land uses; and

WHEREAS, the Project constitutes an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108) and implementing regulations, 36 CFR Part 800: *Protection of Historic Properties*, as amended; and

WHEREAS, the NYSDOT established an Area of Potential Effects (APE), as the term is defined in 36 CFR 800.16(d) and as shown on the map in Appendix 4, and conducted cultural resource surveys to identify historic properties within the APE; and

WHEREAS, the FHWA, in coordination with NYSDOT and in consultation with the New York State Historic Preservation Office (NYSHPO), determined that the undertaking will have no adverse effects on architectural properties determined eligible for the National Register of Historic Places (NRHP), or on the following properties previously listed in the NRHP: Delaware Park, the Parkside East Historic District (including the contributing resources at 23 Agassiz Circle and 17 Parkside Avenue), and the Parkside West Historic District, included in the Olmsted Parks and Parkway Thematic Resources; the Albright-Knox Art Gallery; and the Forest Lawn Cemetery; and

WHEREAS, the FHWA approved requests from the following individuals and organizations to participate as Consulting Parties to the Section 106 process, provided them an opportunity to articulate their views, and invited them to sign this MOA as concurring parties:

- City of Buffalo - Mayor Byron Brown
- Erie County - County Executive Mark Poloncarz
- Buffalo Olmsted Parks Conservancy - Mr. Brian Dold
- Buffalo and Erie County Historical Society - Ms. Sally Treanor
- Delaware Park Steering Committee - Mr. David Lampe
- The Forest Lawn Cemetery - Mr. Dennis Crahen
- Niagara River Greenway Commission - Mr. Robert J. Kresse
- Parkside Community Association - Mr. Bernhard Wagner
- The Preservation Coalition - Ms. Cynthia Van Ness
- Preservation League of New York State - Ms. Tania Werbizky
- Richardson Center Corporation - Ms. Monica Pellegrino Faix, M.U.P.
- Albright-Knox Art Gallery - Dr. Janne Siren
- SUNY Buffalo State College - Dr. Katherine S. Conway-Turner
- Buffalo Zoo - Dr. Donna Fernandes
- Campaign for the Greater Buffalo History, Architecture and Culture - Mr. Tim Tielman
- Seneca Nation of Indians - Mr. Scott Abrams
- Tonawanda Seneca Nation - Chief Darwin Hill
- Seneca-Cayuga Tribe of Oklahoma - Paul Barton

WHEREAS, the FHWA, in coordination with NYSDOT and in consultation with the New York State Historic Preservation Office (NYSHPO), has determined pursuant to 36 CFR 800.4(c), that Scajaquada Site 4 (USN 02940.025582), Scajaquada Site 8 (USN 02940.025586), Scajaquada Site 11 (USN 02940.025589), Scajaquada Site 13 (USN 02940.025591), and Scajaquada Site 14 (USN 02940.025592), archaeological properties within the APE, are eligible for listing in the National Register of Historic Places under Criterion D, due to their potential to yield information important in history and prehistory; and

WHEREAS, the FHWA in coordination with NYSDOT has consulted with the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma, for which Scajaquada Sites 4, 8, 11, 13 and 14 have religious and cultural significance; and

WHEREAS, FHWA and NYSDOT, in consultation with the NYSHPO, have applied the *criteria of adverse effect*, as defined by 36 CFR § 800.5(a)(1), and determined that the undertaking will have an **Adverse Effect** on the Scajaquada Sites 4, 8, 11, and 13 due to the anticipated damage or destruction of archaeological deposits as a result of the proposed construction of the Scajaquada Expressway Corridor Project; and

WHEREAS, the proposed eastbound off and on ramps in front of the Albright-Knox Museum have been removed from the project, thereby avoiding impacts to Scajaquada Site 14; and

WHEREAS, NYSDOT prepared documentation for an *Adverse Effect* finding in accordance with the standards outlined in 36 CFR § 800.11(e), and provided this documentation to the NYSHPO, FHWA, the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma; and

WHEREAS, FHWA, in coordination with NYSDOT, has consulted with the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma regarding the effects of the undertaking on the National Register eligible archaeological sites, and invited them to sign this Memorandum of Agreement (MOA) as a concurring party; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its **Adverse Effect** determination providing the specified documentation, and the ACHP has chosen not to participate in consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, in accordance with 36 CFR Part 800, the FHWA, NYSHPO, and NYSDOT acknowledge and accept the advice and conditions outlined in the ACHP's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites", published in the Federal Register on May 18, 1999, and attached as Appendix 1 to this document; and

WHEREAS, the FHWA, NYSHPO, NYSDOT, the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma agree that recovery of significant information ("Data Recovery") from Scajaquada Site 4, Scajaquada Site 8, and Scajaquada Site 13 may be done in accordance with the published guidance; and

WHEREAS, the FHWA, NYSHPO, NYSDOT, the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma agree that it is in the public interest to expend funds to implement this project through the recovery of significant information from Scajaquada Site 4, Scajaquada Site 8, and Scajaquada Site 13 to mitigate the adverse effects of the project; and

WHEREAS, based on available information, these archaeological sites are not known to contain human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 USC 3001); and

WHEREAS, the report on Phase II Site Examination completed in 2014 recommended that the research potential of Scajaquada Site 11 has been adequately documented, with the result that Phase III Data Recovery of the site is not warranted, and the SHPO concurred; and

NOW, THEREFORE, the FHWA, NYSHPO, and NYSDOT agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA, in coordination with the NYSDOT, shall ensure that the following measures are carried out:

I. Mitigation of Adverse Effects on Archaeological Properties

Prior to the start of the Project's construction, the NYSDOT, on behalf of the FHWA, shall implement **Archaeological Data Recovery** to retrieve important information from Scajaquada Site 4, Scajaquada Site 8, and Scajaquada Site 13.

- A. The NYSDOT shall direct the New York State Education Department (NYSED), Cultural Resource Survey Program, to conduct Data Recovery of Scajaquada Site 4, Scajaquada Site 8, and Scajaquada Site 13 in accordance with the archaeological Data Recovery Plan in Appendix 2, approved by the NYSDOT, NYSHPO, and FHWA, in consultation with the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma.
- B. The Data Recovery Plan shall be implemented by or under the direct supervision of a person, or persons, meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738- 44739) for prehistoric and historic archaeology.
- C. Two weeks after completing fieldwork, the NYSED shall submit to the NYSDOT an end-of-fieldwork letter summarizing the work completed and preliminary results of Data Recovery excavations. The NYSDOT shall provide the letter to the NYSHPO and FHWA, and coordinate with the NYSED to address any questions regarding Data Recovery fieldwork.

- D. Following the completion of laboratory processing and materials analysis, the NYSED shall prepare a Draft Data Recovery Report in accordance with the standards of the current New York State Education Department's (SED) *Cultural Resource Survey Program Work Scope Specifications for Cultural Resource Investigations for NYSDOT Projects*, which includes the New York Archaeological Council's [NYAC's] "Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State", 1994 (NYAC Standards).
- E. The Draft Data Recovery Report shall be submitted to the NYSDOT in digital format. The NYSDOT shall provide the Draft Data Recovery Report to the NYSHPO, FHWA, the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma for a review period of 30 days. The NYSDOT shall then coordinate with the NYSED to resolve comments based on consultation among the reviewing parties. Once the Draft report is deemed acceptable, the NYSDOT shall direct the NYSED to prepare final copies of the Data Recovery Report.
- F. The NYSDOT shall provide copies of the final Data Recovery Report to the NYSHPO, the Seneca Nation of Indians, the Tonawanda Seneca Nation, the Seneca Cayuga Tribe of Oklahoma, and the FHWA.

II. Duration

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. The FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI.

III. Post-Review Discoveries

If evidence of burials or human remains is encountered during construction, the NYSDOT will implement its established procedures for the inadvertent discovery of human remains during construction (Appendix 3). Construction activities in the location of the discovery will be suspended pending notification to and consultation among the NYSHPO, NYSDOT, FHWA, the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma in accordance with these procedures.

If new historic properties are discovered or unanticipated effects on historic properties other than human remains are found, the NYSDOT and FHWA will follow procedures for notification and consultation pursuant to 36 CFR 800.13(b)(3).

IV. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, the NYSDOT shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered and any disputes and objections received in the NYSDOT's efforts to carry out the terms of this MOA.

V. Dispute Resolution

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the resolution proposed by the FHWA to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties and provide them with a copy of this written response. The FHWA will then proceed according to the final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.
- C. The responsibilities of FHWA to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all signatories is filed with the ACHP.

VII. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action they will pursue.

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY:

FEDERAL HIGHWAY ADMINISTRATION

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY:

NEW YORK STATE HISTORIC PRESERVATION OFFICE

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

INVITED SIGNATORY:

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Seneca Nation of Indians

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Tonawanda Seneca Nation

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Seneca Cayuga Tribe of Oklahoma

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

City of Buffalo

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Erie County

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Buffalo Olmsted Parks Conservancy

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Buffalo and Erie County Historical Society

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Delaware Park Steering Committee

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

The Forest Lawn Cemetery

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Niagara River Greenway Commission

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Parkside Community Association

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

The Preservation Coalition

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Preservation League of New York State

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Richardson Center Corporation

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Albright-Knox Art Gallery

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

SUNY Buffalo State College

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Buffalo Zoo

BY: _____ DATE: _____

DRAFT

Execution of this MOA by the FHWA, NYSHPO and NYSDOT, and implementation of its terms provide evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

CONCURRING PARTY:

Campaign for the Greater Buffalo History, Architecture and Culture

BY: _____ DATE: _____

DRAFT

APPENDIX 1

Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites

1. The archaeological site(s) should be significant and of value chiefly for the information on prehistory or history they are likely to yield through archaeological, historical and scientific methods of information recovery, including archaeological excavation.
2. The archaeological site should not contain or be likely to contain human remains, associated or unassociated funerary objects, sacred objects, or items of cultural patrimony as those terms are defined by the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC 3001).
3. The archaeological site should not have long-term preservation value, such as traditional cultural and religious importance to an Indian tribe or a Native Hawaiian organization.
4. The archaeological site should not possess special significance to another ethnic group or community that historically ascribes cultural or symbolic value to the site and would object to the site's excavation and removal of its contents.
5. The archaeological site should not be valuable for potential permanent in-situ display or public interpretation, although temporary public display and interpretation during the course of any excavations may be highly appropriate.
6. The Federal Agency Official should have prepared a data recovery plan with a research design in consultation with the NYSHPO and other stakeholders that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook. The Plan should specify:
 - a. The results of previous research relevant to the project;
 - b. Research problems or questions to be addressed with an explanation of their relevance and importance;
 - c. The field and laboratory analysis methods to be used with a justification of their cost-effectiveness and how they apply to this particular property and these research needs;
 - d. The methods to be used in artifact, data and other records management;
 - e. Explicit provisions for disseminating the research findings to professional peers in a timely manner;
 - f. Arrangements for presenting what has been found and learned to the public, focusing particularly on the community or communities that may have interests in the results;
 - g. The curation of recovered materials and records resulting from the data recovery in accordance with 36 CFR part 79 (except in the case of unexpected discoveries that may need to be considered for repatriation pursuant to NAGPRA); and
 - h. Procedures for evaluating and treating discoveries of unexpected remains or newly identified historic properties during the course of the project, including necessary consultation with other parties.
7. The Federal Agency Official should ensure that the data recovery plan is developed and will be implemented by or under the direct supervision of a person, or persons, meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739).

8. The Federal Agency Official should ensure that adequate time and money to carry out all aspects of the plan are provided, and should ensure that all parties consulted in the development of the plan are kept informed of the status of its implementation.
9. The Federal Agency Official should ensure that a final archaeological report resulting from the data recovery will be provided to the NYSHPO. The Federal Agency Official should ensure that the final report is responsive to professional standards and to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (41 FR 5377-79).
10. Large, unusual or complex projects should provide for special oversight, including professional peer review.
11. The Federal Agency Official should determine that there are no unresolved issues concerning the recovery of significant information with any Indian tribe or Native Hawaiian organization that may attach religious and cultural significance to the affected property.
12. Federal Agency Officials should incorporate the terms and conditions of this recommended approach into a Memorandum of Agreement or Programmatic Agreement, file a copy with the ACHP per § 800.6(b)(iv), and implement the agreed upon plan. The agency should retain a copy of the agreement and supporting documentation in the project files.

APPENDIX 2

Map showing Archaeological Site Locations

Archaeological Data Recovery Plan

DRAFT

APPENDIX 3

NYSDOT Procedures in the Event of the Inadvertent Discovery of Human Remains during Construction

1. If a burial site, human remains, or bones thought to be human remains, are encountered during construction for a NYSDOT undertaking, the work will be stopped immediately and rescheduled to avoid disturbing the area. The remains will be left in place and protected from further damage.
2. In accordance with the latest version of the NYSDOT Updated 2008 Standard Specifications Book, Section 107-01 .D. *Archaeological Salvage*¹, the Engineer-in-Charge (EIC) will, through proper channels, notify appropriate Department personnel and other authorities. The EIC will report the discovery of human remains to the local police, and the county coroner having jurisdiction, or to the medical examiner, and will arrange immediate inspection of the site².
3. If the site is determined to be part of a criminal investigation, the police will notify the EIC when work in the area may resume.
4. If determined that the remains are not a police issue, the Regional Cultural Resources Coordinator (CRC) will notify the Federal Highway Administration (FHWA), the Office of Parks, Recreation and Historic Preservation/ State Historic Preservation Office (OPRHP/SHPO), appropriate Indian tribal contacts, and archaeologists, and arrange site visits accordingly. Work will be temporarily suspended in the area, and measures will be taken to secure the burial site and protect the remains from disturbance, including the placement of a twenty-five foot protective buffer around the burial site.
5. The NYSDOT Environmental Science Bureau (ESB), in coordination with the Region, will arrange for a qualified physical anthropologist to examine the remains. NYSDOT in coordination with FHWA will invite designated Indian tribal representative(s) to participate in the consultation process. Representatives will be determined on the basis of established Department contacts and identified areas of interest for tribal nations. The remains will not be removed until determined by the qualified physical anthropologist to be non-native.
6. NYSDOT, in consultation with the OPRHP/SHPO, Indian tribes and other identified consulting parties, will arrange for an archeologist to establish horizontal and vertical extent of the burial(s) and assess measures for avoiding the human remains if possible. The avoidance of human remains is the preferred choice.
7. Any new location or alignment developed to avoid the burial(s) will be subject to archaeological investigation, and the results will be provided to the OPRHP/SHPO, Indian tribes, and other consulting parties as appropriate for comment before the project proceeds in this area.
8. If the alignment is unchanged, a plan will be developed in coordination with FHWA, NYSHPO, the Indian tribal representatives, and other consulting parties as appropriate, to preserve the site and protect the burial(s) before the project proceeds in this area.
9. If removal and reburial of the remains is necessary, it will be undertaken in a manner agreed to by all involved parties. Temporary disposition of the remains until reburial will be determined in consultation with the Indian tribes, and other consulting parties as appropriate.
10. Any actions relating to the treatment, disposition, removal, or reburial of human remains will comply with all applicable State and Federal laws and regulations.

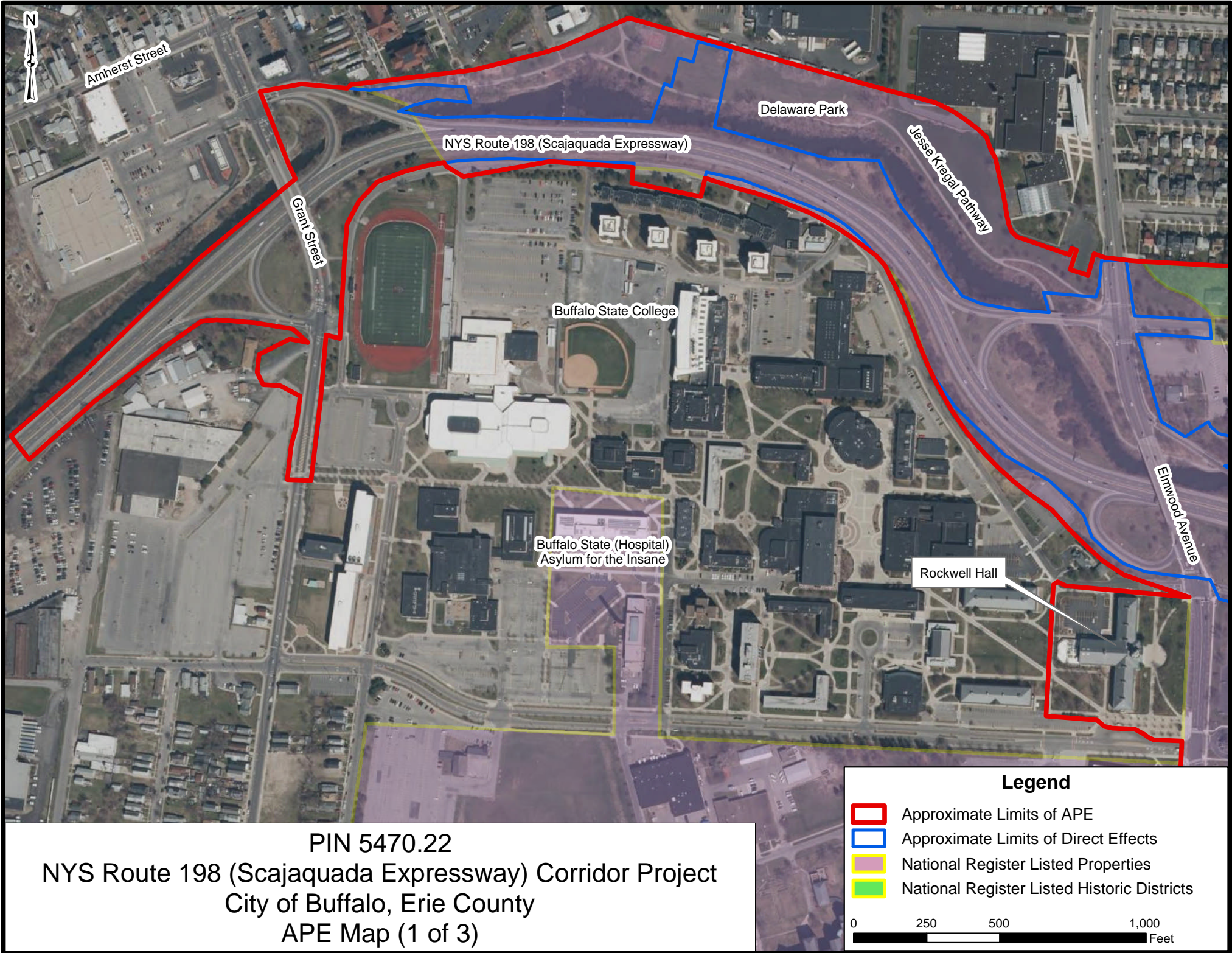
¹ <https://www.dot.ny.gov/main/business-center/engineering/specifications/updated-standard-specifications-us>

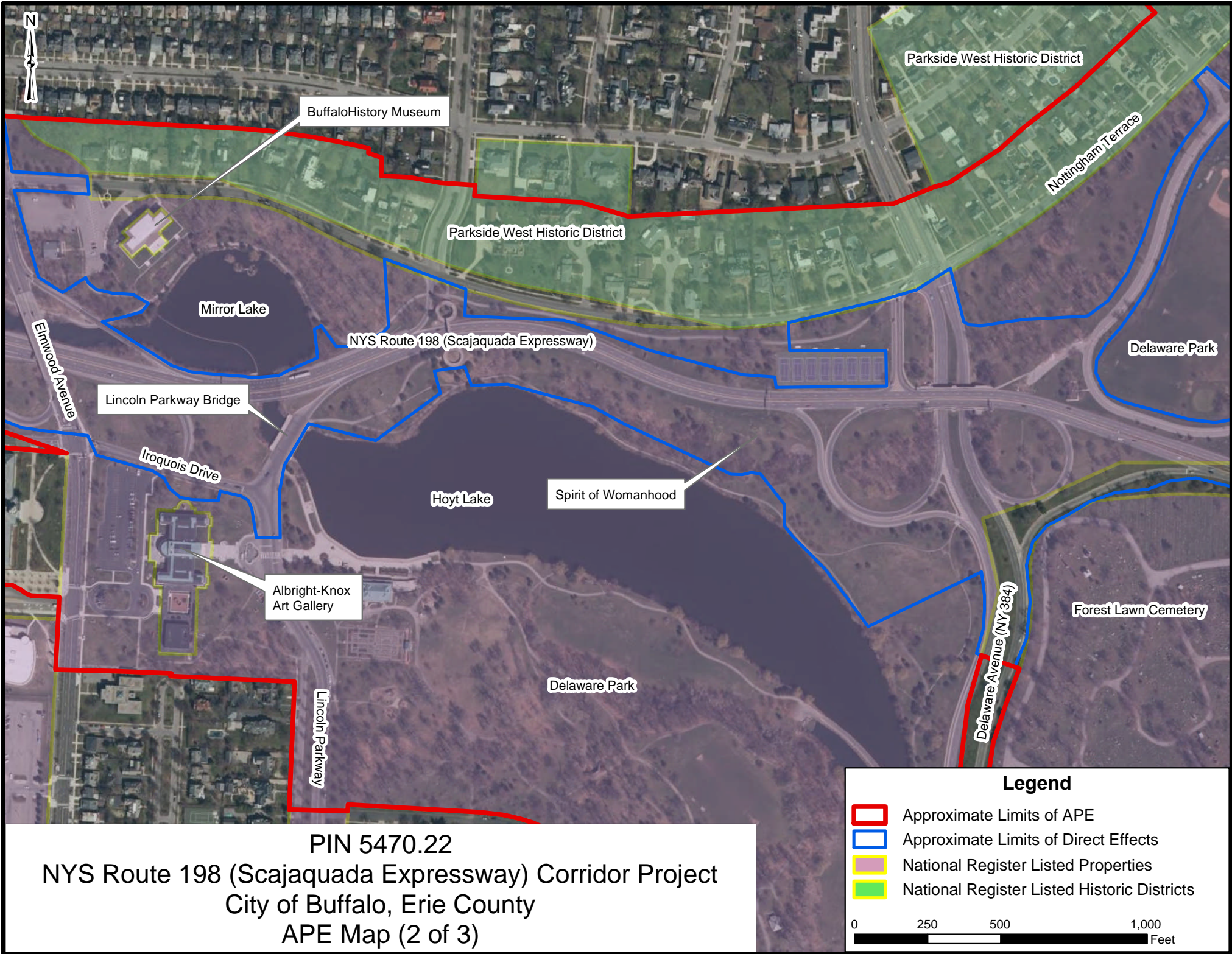
² In Erie County, the discovery must be reported to the medical director.

APPENDIX 4

Map showing Area of Potential Effects (APE)

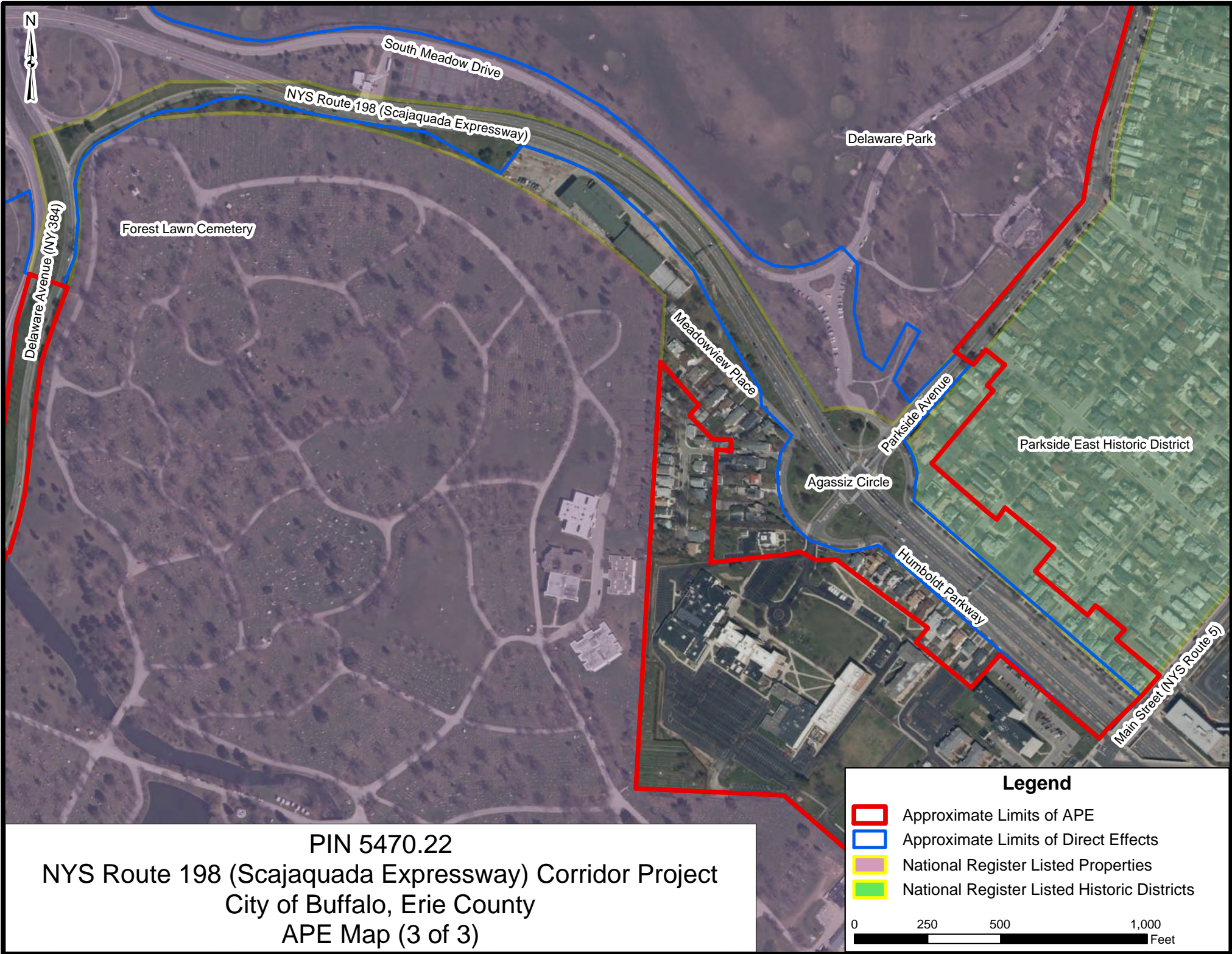
DRAFT





PIN 5470.22

NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
APE Map (2 of 3)





STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
REGION FIVE
100 SENECA STREET
BUFFALO, NY 14203
www.nysdot.gov

ALAN E. TAYLOR, P.E.
REGIONAL DIRECTOR

ASTRID C. GLYNN
COMMISSIONER

February 22, 2008

See Attached Recipient Listing.

**RE: INVITATION TO BECOME CONSULTING PARTY ON
NYS ROUTE 198 (SCAJAQUADA EXPRESSWAY) CORRIDOR
I-190 TO NYS ROUTE 33
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22**

Dear

The Federal Highway Administration (FHWA), in cooperation with the New York State Department of Transportation (NYSDOT), is initiating an Environmental Impact Statement (EIS) for a proposal to reconstruct the NYS Route 198 (Scajaquada Expressway) Corridor between the I-190 and NYS Route 33. A September 2004 Archaeological and Architectural Reconnaissance Survey and Historic Setting Analysis for the project area was prepared by the State University of New York at Buffalo for the New York State Museum/New York State Education Department. This study provided the following results:

- o Prehistoric sites identified: Three (3)
- o Historic sites identified: One (1)
- o Number of listed or eligible National Register sites that may be impacted: Three (3)
- o Number of associated primary buildings: 98
- o Number of bridges within project area: 12
- o Number of known/listed National Register structures, districts or properties:
 - One structure
 - Two districts
 - 33 properties
- o Number of National Register Eligible structures, districts or properties:
 - Four structures
 - One district
 - 34 properties (26 of which lie in the proposed district)
- o Number of listed or eligible properties /structures that may be impacted: 72

In view of the abundance of cultural resources in the corridor, project development will include review under Section 106 of the National Historic Preservation Act, which is implemented in 36 CFR Part 800. We are inviting your tribe to become a consulting party as described in 36 CFR

800.2(c). Section 101(d)(6)(B) of the act also requires consultation with any Native American Tribe that attaches religious and cultural significance to historic properties that may be affected by the undertaking. The role of a consulting party will include providing comments and input with regard to various aspects of the Section 106 process including:

The identification of historic properties within the Area of Potential Effects,
Assessing the effects to historic properties from alternatives developed,
The application of criteria of adverse effect for each alternative developed, and
Resolution of adverse effect on the Preferred Alternative (if needed).

While details regarding the involvement of consulting parties are still being developed, one of the first opportunities of a consulting party will be to review the Archaeological and Architectural Reconnaissance Survey and Historic Setting Analysis referenced above.

The NYS Route 198 (the Scajaquada Expressway) is an Urban Principal Arterial Expressway on the National Highway System connecting Interstate 190 and NYS Route 33 with traffic volumes between 39,000 and 80,000 vehicles per day, a design speed of 55 mph, and grade separated interchanges. The expressway is subject to congestion (a poor Level of Service at several intersections) and accidents (higher than expected rates). There are also areas of poor pavement conditions and failing drainage systems. The expressway facility is at odds with the context of the surrounding culturally rich community resources, including a nationally renowned art gallery, a historic Olmsted-designed park, a historic cemetery, historic buildings, higher education institutions and residential neighborhoods. The expressway acts as a barrier, dividing the park and hindering the use of these resources by the community including pedestrians and bicyclists. A transportation facility is needed that balances the need to be in harmony with the surrounding community character with the need to provide safe and efficient transportation service for all modes of transportation through the affected area.

The Delaware Park Steering Committee began looking at the possibility of converting the Scajaquada Expressway in the late 1980's. In the summer of 1999, the Buffalo Olmsted Parks Conservancy (BOPC) reactivated this work and found that funding from ISTEAD Demonstration Funds, set aside by former Congressman Henry Nowak, was available. In June 2005, the City of Buffalo, in cooperation with NYSDOT and the Greater Buffalo-Niagara Regional Transportation Council (GBNRTC), completed the "Final Report and Expanded Project Proposal" for the "NY Route 198 Scajaquada Corridor Study, Grant Street to Parkside Avenue, NYSDOT P.I.N. 5470.14." This report may be downloaded from the City's webpage at:

http://www.ci.buffalo.ny.us/Home/NewsCalendar/Scajaquada_Corridor_Study

It is anticipated that the development of alternatives will investigate the conversion of some existing grade-separated interchanges along the corridor to at-grade intersections with signals or roundabouts. The reconstructed roadway would include new curbs, highway drainage systems, sidewalks, bicycle paths and shared-use facilities, improved highway lighting and signing, and landscape enhancements.

To provide additional information regarding the project, please find attached the meeting minutes and a PowerPoint presentation from the recent National Environmental Policy Act (NEPA) Public Scoping Meeting. Also, please feel free to review the project website at:

February 22, 2008
PIN 5470.22
Page 3

<https://www.nysdot.gov/portal/page/portal/regional-offices/region5/projects/scajaquadacorridor>

We look forward to your response to our invitation for your tribe to be a consulting party and working with you in this role on this transportation project. A response is requested by March 14, 2008. If there is another person who would represent your tribe in this role, please provide that person's contact information in your reply.

If you have any questions or would like to discuss in more detail the project or the role of a consulting party, please contact Craig S. Mozrall, Assistant Regional Design Engineer, at (716) 847-3033.

Sincerely,

Original Signed By:
D. F. Kaminski

Darrell F. Kaminski, P. E.
Regional Design Engineer

DFK:CSM:DJH:NS:jmk
Enclosures

cc: John Burns, FHWA
Timothy Bender, Consultant Management Bureau, 50 Wolf Road, POD #33
Mary Ivey, Office of Environment, 50 Wolf Road, POD #41
Shelah A. LaDuc, Regional Environmental Program Manager
Mark J. McAnany, Bergmann Associates
Peter Nixon, Planning & Special Projects
Iqbal Vora, DQAB - Project Development Section, 50 Wolf Road, POD #23

Ms. Kathy Mitchell
Seneca Nation of Indians
Tribal Historic Preservation Officer
467 Center Street
Salamanca, NY 14779

Mr. Darwin Hill, Clerk
Tonawanda Seneca Nation of Indians
7027 Meadville Road
Basom, NY 14013



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

March 7, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Daniel Hitt
Director, Office of Environment
New York State Department of Transportation
50 Wolf Road, POD 4-1
Albany, NY 12232

Subject: PIN 5470.22 NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
Approval of Section 106 Consulting Party Status

Dear Mr. Hitt:

We have reviewed your March 7 letter transmitting 18 requests for Section 106 consulting party status on the NYS Route 198 (Scajaquada Expressway) Corridor Project. As stated in 36 CFR Part 800.2(c)(5):

Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of the legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.

After reviewing the information contained in the individual requests, we have approved the following organizations and individuals to be consulting parties to the Section 106 process for the subject project:

1. City of Buffalo - Mayor Byron Brown
2. Erie County - County Executive Mark Poloncarz
3. Buffalo Olmsted Parks Conservancy - Mr. Brian Dold
4. Buffalo and Erie County Historical Society - Ms. Sally Treanor
5. Delaware Park Steering Committee - Mr. David Lampe
6. The Forest Lawn Cemetery - Mr. Dennis Crahen
7. Niagara River Greenway Commission - Mr. Robert J. Kresse
8. Parkside Community Association - Mr. Bernhard Wagner
9. The Preservation Coalition - Ms. Cynthia Van Ness
10. Preservation League of New York State - Ms. Tania Werbizky
11. Richardson Center Corporation - Ms. Monica Pellegrino Faix, M.U.P.
12. Albright-Knox Art Gallery - Dr. Janne Siren
13. SUNY Buffalo State College - Dr. Katherine S. Conway-Turner

14. Buffalo Zoo - Dr. Donna Fernandes
15. Campaign for the Greater Buffalo History, Architecture and Culture - Mr. Tim Tielman,
16. Seneca Nation of Indians - Mr. Scott Abrams
17. Tonawanda Band of Seneca - Chief Darwin Hill
18. Seneca-Cayuga Nation - Paul Barton

Consulting party status entitles these individuals/organizations to share views, receive and review pertinent information, offer ideas, and consider possible solutions together with the Federal Highway Administration, NYSDOT, and other consulting parties. Please ensure the requestors have a copy of the Advisory Council on historic Preservation's IACHP) guide entitled "Protecting Historic Properties: A Citizen's Guide to Section 106 Review."

If you have any questions, please contact me at (518) 431-8880.

Sincerely,



Robert M. Davies
District Engineer

cc:

Hans Anker, P.E., Senior Area Engineer, FHWA, NY Division
Ruth Pierpont, Deputy Commissioner/Deputy SHPO, New York State Office of Parks,
Recreation, and Historic Preservation
Christopher Wilson, Program Analyst, Advisory Council on Historic Preservation (e-mail)
Craig Mozrall, P.E., Regional Special Projects Manager (e-mail)



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

March 8, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Honorable Byron Brown, Mayor
City of Buffalo
Buffalo City Hall, Room 201
65 Niagara Square
Buffalo, NY 14202

**RE: SECTION 106 CONSULTING PARTY MEETING
NY ROUTE 198 CORRIDOR PROJECT
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22.101**

Dear Mayor Brown:

As a Section 106 Consulting Party for the NYS Route 198 (Scajaquada Expressway) Corridor project, the Federal Highway Administration (FHWA), in coordination with the New York State Department of Transportation (NYSDOT), cordially invites you to participate in a meeting to be held on Tuesday, March 22, 2016 at 2:00 p.m. at the NYSDOT Buffalo office, 100 Seneca Street, Buffalo, New York 14203. A map and directions are enclosed for your convenience.

The purpose of this meeting is to re-engage Consulting Parties in the Section 106 process for the Scajaquada Expressway Corridor Project, to provide an overview and update on the Project, the current status of the Section 106 review, and the identified historic properties. Consulting Parties will also have an opportunity to discuss the upcoming assessment of effects with representatives from FHWA and NYSDOT.

The Section 106 process and role of Consulting Parties is described in the enclosed publication of the Advisory Council on Historic Preservation (ACHP), *"Protecting Historic Properties: A Citizen's Guide to Section 106 Review"*. In accordance with Section 106 of the National Historic Preservation Act, and regulations issued by the ACHP, Consulting Parties have a designated role in the Section 106 review separate from the general public.

Please RSVP no later than the close of business on March 18, 2016 by contacting the NYSDOT Buffalo office: Lacey Gavazzo, Office Assistant 1, at (716) 847-5268 or via e-mail at Lacey.Gavazzo@dot.ny.gov. If you are unable to attend in person but would like to participate via conference call, a number will be generated and provided for your use.

If you have any questions or would like additional information, please feel free to contact Mr. Craig Mozrall, NYSDOT Special Projects Manager – Region 5, at (716) 847-3033 or Craig.Mozrall@dot.ny.gov.

Sincerely,



Robert M. Davies
District Engineer

RMD/KAL/AGB/MS/bjh

Enc: *Protecting Historic Properties: A Citizen's Guide to Section 106 Review*, ACHP
Map and directions to NYSDOT Buffalo office

cc: Ruth L. Pierpont, Deputy Commissioner/ Deputy SHPO, NYSOPRHP
Christopher A. Wilson, Program Analyst, ACHP
Daniel P. Hitt, RLA, Director, Office of Environment, NYSDOT
Craig S. Mozrall, P.E., Regional Special Projects Manager, NYSDOT
Kimberly A. Lorenz, Regional Landscape Architect/Env. Unit Mgr., NYSDOT



Department of Transportation

ANDREW M. CUOMO
Governor

MATTHEW J. DRISCOLL
Commissioner

Cathy Calhoun
Chief of Staff

August 18, 2016

John Bonafide
Director, Bureau of Technical Preservation Services
Division for Historic Preservation
NYS Office of Parks, Recreation & Historic Preservation
P.O. Box 189 - Peebles Island State Park
Waterford, New York 12188-0189

RE: PIN 5470.22
NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
Section 106 Review - Finding Documentation
OPRHP #13PR03545

Dear Mr. Bonafide:

The New York State Department of Transportation (NYSDOT), in coordination with the Federal Highway Administration (FHWA), is submitting the enclosed documentation for the NYS Route 198 (Scajaquada Expressway) Corridor Project for review by the New York State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act, as amended, and implementing regulations at 36 CFR Part 800: *Protection of Historic Properties*.

The purpose of the project is to provide geometric and operational improvements to NYS Route 198 in its current location from the intersection of Grant Street to the intersection of Parkside Avenue, including the segment through Delaware Park, which is listed in the National Register of Historic Places. These improvements will be made while maintaining local connectivity and a critical transportation link between Interstate 190 and NYS Route 33, and providing enhanced compatibility with adjacent land uses.

Enclosed please find documentation for a finding of Adverse Effect for the project. Applying the *criteria of adverse effect* (36 CFR Part 800.5(a)), the *Finding Documentation* concludes that the project would cause adverse effects on identified National Register eligible archeological sites due to the proposed realignment of the road, construction of multi-use paths, and construction of a safety barrier.

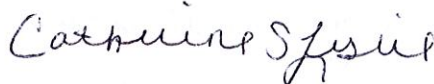
The documentation also concludes that proposed changes within Delaware Park as a result of this undertaking will not alter, directly or indirectly, the characteristics that qualify the property for inclusion in the National Register in a manner that would diminish the property's integrity. The park will continue to retain its qualifying characteristics as a property listed in the National Register of Historic Places.

Based on review of the enclosed document, we respectfully request the written concurrence of the SHPO with an **Adverse Effect** finding for this undertaking. In addition, we request concurrence that the Project will not adversely affect Delaware Park or 23 Agassiz Circle (a contributing resource to the Parkside East Historic District), both historic properties which qualify for Section 4(f) protection as implemented by the FHWA through the regulation 23 CFR Part 774 – *Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))*.

To maintain the schedule for the proposed action, we would appreciate your response by **September 1, 2016**.

Please contact Mary Santangelo at (518) 457-0153 or Mary.Santangelo@dot.ny.gov if you have questions or would like additional information.

Sincerely,



for Daniel P. Hitt, RLA
Director, Office of Environment

DH/ms/cl

Encl: *Finding Documentation NYS Route 198, Scajaquada Expressway Interstate 190 to NYS Route 33, Kensington Expressway*

cc: R. Pierpont, OPRHP / SHPO (w/out encl)
R. Davies, FHWA (w/ encl)
H. Anker, FHWA (w/ encl)
C. Mozrall, Special Projects Manager, NYSDOT Region 5 (w/out encl)
K. Lorenz, Environmental Program Manager, NYSDOT Region 5
A. Brayman, Cultural Resource Coordinator, NYSDOT Region 5 (w/out encl)



**Parks, Recreation
and Historic Preservation**

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

August 30, 2016

Robert M. Davies
District Engineer
FHWA, New York Division
Leo O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
(via email only)

Re: FHWA/DOT
NYS Route 198 (Scajaquada Expressway) Corridor Project
Buffalo, Erie County
13PR03545/PIN 5470.22

Dear Mr. Davies:

Thank you for your ongoing consultation with the New York State Historic Preservation Office (SHPO). We continue to review this undertaking in accordance with Section 106 of the National Historic Preservation Act of 1966.

Based on information that has been provided to our office by the New York State Department of Transportation, we can concur with your agency's finding that this action will have an Adverse Effect on archaeological sites located within the project area.

A review of the submitted material demonstrates that alternatives have been explored that might avoid or minimize these affects. Based on this information we would agree that the next step in the Section 106 process would be to develop appropriate mitigation measures that would be memorialized in a Memorandum of Agreement.

If I can be of any further assistance please do not hesitate to contact me at (518) 268-2166 or john.bonafide@parks.ny.gov.

Sincerely,

John A. Bonafide
Director,
Technical Preservation Services Bureau
Agency Historic Preservation Officer

Cc: Daniel P. Hitt, NYSDOT *(via email)*
Mary Santangelo, NYSDOT *(via email)*



Parks, Recreation and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

August 30, 2016

Robert M. Davies
District Engineer
FHWA, New York Division
Leo O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
(via email only)

Re: FHWA/DOT
NYS Route 198 (Scajaquada Expressway) Corridor Project/§ 4(f) Comments
Buffalo, Erie County
13PR03545/PIN 5470.22

Dear Mr. Davies:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO) as part of your § 4(f) review requirements.

Based on information that has been provided to our office by the New York State Department of Transportation, we have assessed potential adverse effects to historic properties associated with aspects of this project.

We note that Delaware Park (NR Listed), the Parkside East Historic District (NR Listed) and the home at 23 Agassiz Circle (contributing to the Parkside East HD) are potentially impacted by this activity. We have reviewed all of the submitted information and have found that the proposed activities, as presented, will not alter or diminish any of the character defining features or integrity associated with the National Register listing of these properties. As such, the activity will result in no direct or indirect impacts to these historic resources.

If I can be of any further assistance please do not hesitate to contact me at (518) 268-2166 or john.bonafide@parks.ny.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Bonafide".

John A. Bonafide
Director,
Technical Preservation Services Bureau
Agency Historic Preservation Officer

Cc: Daniel P. Hitt, NYSDOT (via email)
Mary Santangelo, NYSDOT (via email)

Division for Historic Preservation

P.O Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • www.nysparks.com



September 13, 2016

Hans Anker, P.E.
Senior Area Engineer
Federal Highway Administration
New York Division
Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207

RE: PIN 5470.22
NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
Section 106 Effect Finding
OPRHP #13PR03545

Dear Mr. Anker:

On August 18, 2016, the New York State Department of Transportation (NYSDOT) provided, through submission to CRIS, Finding Documentation for the proposed NYS Route 198 (Scajaquada Expressway) Corridor Project for review by the New York State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act, as amended, and implementing regulations at 36 CFR Part 800: *Protection of Historic Properties*. The Federal Highway Administration (FHWA) was carbon-copied and sent a hard copy of the Finding Documentation.

The purpose of the project is to provide geometric and operational improvements to NYS Route 198 in its current location from the intersection of Grant Street to the intersection of Parkside Avenue, including the segment through Delaware Park, which is listed in the National Register of Historic Places. These improvements will be made while maintaining local connectivity and a critical transportation link between Interstate 190 and NYS Route 33, and providing enhanced compatibility with adjacent land uses.

The Finding Documentation summarized the assessment of the Project's effects on identified historic properties within the area of potential effects (APE). Applying the Criteria of Adverse Effect (36 CFR Part 800.5(a)), the assessment found the project would have an **Adverse Effect** on identified National Register eligible archeological sites due to the proposed realignment of the road, construction of multi-use paths, and construction of a safety barrier.

The SHPO reviewed the Finding Documentation and concurred with the finding of Adverse Effect for the project as noted in a letter from the SHPO to the FHWA dated August 30, 2016 (attached).

Based on the above-referenced documentation and consultation with the SHPO, we respectfully request that the FHWA issue an Adverse Effect determination for the undertaking.

Please contact Mary Santangelo at (518) 457-0153 or Mary.Santangelo@dot.ny.gov if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel P. Hitt", with a stylized flourish at the end.

Daniel P. Hitt, RLA
Director, Office of Environment

DH/lb/ms

Encl: August 30, 2016 Letter from NY State Historic Preservation Office for the NYS Rte 198 Scajaquada Corridor Project (PIN 5470.22, 13PR03545)

cc: R. Davies, District Engineer, FHWA (w/out encl)
C. Mozrall, Special Projects Manager, NYSDOT Region 5 (w/out encl)
K. Lorenz, Environmental Program Manager, NYSDOT Region 5 (w/out encl)
A. Brayman, Cultural Resource Coordinator, NYSDOT Region 5 (w/out encl)



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

August 31, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Mr. Reid Nelson
Director, Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street, NW, Suite 308
Washington, DC 20001

Subject: PIN 5470.22 NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County, New York

Dear Mr. Nelson:

We would like to formally invite you to participate in the Memorandum of Agreement for the subject project.

The New York State Department of Transportation, in cooperation with the Federal Highway Administration, will prepare an Environmental Impact Statement in accordance with the National Environmental Policy Act (NEPA) on the project in Erie County, New York. The purpose of the Project is to provide geometric and operational improvements to NYS Route 198, a portion of which is through the National Register of Historic Places listed Delaware Park, while maintaining local connectivity and transportation link between Interstate 190 and NYS Route 33.

In accordance with the provisions of 36 CFR 800.6, we advise you that in consultation with the New York State Historic Preservation Officer, we have determined that the subject project will have an *Adverse Effect*.

In accordance with article 800.6(a)(1), we are enclosing the documentation specified in article 800.11(e) which includes the letter from the New York State Historic Preservation Office's concurring with the *Adverse Effect* finding, the Finding Documentation, project location maps, and project location photos. Please notify us whether the Council will participate in consultation within 15 days.

If you have any questions, please contact me at (518) 431-8896.

Sincerely,

/s/ HANS ANKER

Hans Anker, P.E.
Senior Area Engineer

Enclosures

cc: Ruth Pierpont, OPRHP (email)
Dan Hitt, NYSDOT, Director, Office of Environment (email)
Craig Mozrall, NYSDOT, Region 5 (email)
Mary Santangelo, NYSDOT Environmental Specialist (email)

bcc: PIN 5470.22, p:\projects\region 5\5470.22 ACHP Participation Request.docx,
s:\fy16\4th\5470.22 ACHP Participation Request.pdf, HANKER:ha:tms 8/31/16



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

September 9, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Micco Emarthla, Tribal Historic Preservation Officer
Director, Culture/Historic Preservation Program
Seneca-Cayuga Nation
23701 South 655 Road
Grove, OK 74344

**RE: SECTION 106 NATION CONSULTATION
NYS ROUTE 198, SCAJAQUADA CORRIDOR PROJECT
FROM GRANT STREET TO PARKSIDE AVENUE
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22.121 / PR#13PR03545**

Dear Mr. Emarthla:

The Federal Highway Administration (FHWA) in coordination with the New York State Department of Transportation (NYSDOT) initiated consultation with the Seneca-Cayuga Nation on March 8, 2016 for the NYS Route 198 Scajaquada Corridor project, an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations (36 CFR Part 800).

As part of the Section 106 Consultation process, additional information is being provided to seek the Nation's views on the assessments of effects for the proposed undertaking. Enclosed for your review, please find the Section 106 Finding Document submitted to the New York State Historic Preservation Office (SHPO) on August 18, 2016. Based on review of the provided information, the SHPO has indicated their concurrence that "this action will have an **Adverse Effect** on archaeological sites located within the project area" (August 30, 2016).

To resolve adverse effects, a Memorandum of Agreement (MOA) will be developed in consultation among the FHWA, SHPO, NYSDOT, Seneca Nation of Indians (SNI), Tonawanda Seneca Nation (TSN) and Seneca-Cayuga Nation of Oklahoma. Data Recovery is proposed for the sites that may be adversely affected due to disturbance by construction activities: Scajaquada Sites 4, 8, 11, 13 and 14. A Draft Data Recovery Plan will be provided for your review along with the Draft MOA.

The FHWA is requesting your comments on the Section 106 Finding Documentation, and Data Recovery as an appropriate treatment to mitigate adverse effects. Please provide comments via regular mail to my attention; Robert Davies, District Engineer, FHWA, New York Division,

Leo O'Brien Federal Building, 11A Clinton Avenue Suite 719, Albany, NY 12207 or via e-mail to Hans Anker, Senior Area Engineer at Hans.Anker@DOT.gov or by phone (518) 431-8896.

We respectfully request your comments by October 14, 2016. On behalf of FHWA and NYSDOT, I would like to thank you for your participation in consultation for the Scajaquada Corridor Project.

Sincerely,



Robert M. Davies
District Engineer

RMD/ms/cl

Enclosures: Finding Document, SHPO letter (August 30, 2016)

cc: Hans Anker, P.E., Senior Area Engineer, FHWA, NY Division (email w/o encl)
Daniel P. Hitt, Director, Office of Environment, NYSDOT, POD 4-1 (w/o encl)
Mary Santangelo, Environmental Specialist, NYSDOT, POD 4-1 (email w/o encl)
Ron Hayes, Regional Local Project Liaison, NYSDOT, R-5 (email w/o encl)
Craig S. Mozrall, P.E., Special Projects Manager, NYSDOT, R-5 (email w/o encl)



U.S. Department
of Transportation

**Federal Highway
Administration**

New York Division

September 9, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Scott Abrams, Director
Tribal Historic Preservation Officer
Seneca Nation of Indians
90 Ohi:Yo' Way
Salamanca, NY 14779

**RE: SECTION 106 NATION CONSULTATION
NYS ROUTE 198, SCAJAQUADA CORRIDOR PROJECT
FROM GRANT STREET TO PARKSIDE AVENUE
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22.121 / PR#13PR03545**

Dear Mr. Abrams:

The Federal Highway Administration (FHWA) in coordination with the New York State Department of Transportation (NYSDOT) initiated consultation with the Seneca Nation of Indians on March 8, 2016 for the NYS Route 198 Scajaquada Corridor project, an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations (36 CFR Part 800).

As part of the Section 106 Consultation process, additional information is being provided to seek the Nation's views on the assessments of effects for the proposed undertaking. Enclosed for your review, please find the Section 106 Finding Document submitted to the New York State Historic Preservation Office (SHPO) on August 18, 2016. Based on review of the provided information, the SHPO has indicated their concurrence that "this action will have an **Adverse Effect** on archaeological sites located within the project area" (August 30, 2016).

To resolve adverse effects, a Memorandum of Agreement (MOA) will be developed in consultation among the FHWA, SHPO, NYSDOT, Seneca Nation of Indians (SNI), Tonawanda Seneca Nation (TSN) and Seneca-Cayuga Nation of Oklahoma. Data Recovery is proposed for the sites that may be adversely affected due to disturbance by construction activities: Scajaquada Sites 4, 8, 11, 13 and 14. A Draft Data Recovery Plan will be provided for your review along with the Draft MOA.

The FHWA is requesting your comments on the Section 106 Finding Documentation, and Data Recovery as an appropriate treatment to mitigate adverse effects. Please provide comments via regular mail to my attention; Robert Davies, District Engineer, FHWA, New York Division,

Leo O'Brien Federal Building, 11A Clinton Avenue Suite 719, Albany, NY 12207 or via e-mail to Hans Anker, Senior Area Engineer at Hans.Anker@DOT.gov or by phone (518) 431-8896.

We respectfully request your comments by October 14, 2016. On behalf of FHWA and NYSDOT, I would like to thank you for your participation in consultation for the Scajaquada Corridor Project.

Sincerely,



Robert M. Davies
District Engineer

RMD/ms/cl

Enclosures: Finding Document, SHPO letter (August 30, 2016)

cc: Jay Toth, Tribal Archaeologist, Seneca Nation of Indians (email w/o encl)
Hans Anker, P.E., Senior Area Engineer, FHWA, NY Division (email w/o encl)
Daniel P. Hitt, Director, Office of Environment, NYSDOT, POD 4-1 (w/o encl)
Mary Santangelo, Environmental Specialist, NYSDOT, POD 4-1 (email w/o encl)
Ron Hayes, Regional Local Project Liaison, NYSDOT, R-5 (email w/o encl)
Craig S. Mozrall, P.E., Special Projects Manager, NYSDOT, R-5 (email w/o encl)



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

September 9, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
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New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Chief Darwin Hill
Tonawanda Seneca Nation Office
7027 Meadville Road
Basom, NY 14013

**RE: SECTION 106 NATION CONSULTATION
NYS ROUTE 198, SCAJAQUADA CORRIDOR PROJECT
FROM GRANT STREET TO PARKSIDE AVENUE
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22.121 / PR#13PR03545**

Dear Chief Hill:

The Federal Highway Administration (FHWA) in coordination with the New York State Department of Transportation (NYSDOT) initiated consultation with the Tonawanda Seneca Nation on March 8, 2016 for the NYS Route 198 Scajaquada Corridor project, an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations (36 CFR Part 800).

As part of the Section 106 Consultation process, additional information is being provided to seek the Nation's views on the assessments of effects for the proposed undertaking. Enclosed for your review, please find the Section 106 Finding Document submitted to the New York State Historic Preservation Office (SHPO) on August 18, 2016. Based on review of the provided information, the SHPO has indicated their concurrence that "this action will have an **Adverse Effect** on archaeological sites located within the project area" (August 30, 2016).

To resolve adverse effects, a Memorandum of Agreement (MOA) will be developed in consultation among the FHWA, SHPO, NYSDOT, Seneca Nation of Indians (SNI), Tonawanda Seneca Nation (TSN) and Seneca-Cayuga Nation of Oklahoma. Data Recovery is proposed for the sites that may be adversely affected due to disturbance by construction activities: Scajaquada Sites 4, 8, 11, 13 and 14. A Draft Data Recovery Plan will be provided for your review along with the Draft MOA.

The FHWA is requesting your comments on the Section 106 Finding Documentation, and Data Recovery as an appropriate treatment to mitigate adverse effects. Please provide comments via regular mail to my attention; Robert Davies, District Engineer, FHWA, New York Division, Leo O'Brien Federal Building, 11A Clinton Avenue Suite 719, Albany, NY 12207 or via e-mail to Hans Anker, Senior Area Engineer at Hans.Anker@DOT.gov or by phone (518) 431-8896.

We respectfully request your comments by October 14, 2016. On behalf of FHWA and NYSDOT, I would like to thank you for your participation in consultation for the Scajaquada Corridor Project.

Sincerely,



Robert M. Davies
District Engineer

RMD/ms/cl

Enclosures: Finding Document, SHPO letter (August 30, 2016)

cc: Hans Anker, P.E., Senior Area Engineer, FHWA, NY Division (email w/o encl)
Daniel P. Hitt, Director, Office of Environment, NYSDOT, POD 4-1 (w/o encl)
Mary Santangelo, Environmental Specialist, NYSDOT, POD 4-1 (email w/o encl)
Ron Hayes, Regional Local Project Liaison, NYSDOT, R-5 (email w/o encl)
Craig S. Mozrall, P.E., Special Projects Manager, NYSDOT, R-5 (email w/o encl)



FILE COPY

September 16, 2016

SEE CONSULTING PARTIES MAILING LIST

**RE: SECTION 106 CONSULTING PARTIES COORDINATION
NYS ROUTE 198, SCAJAQUADA CORRIDOR PROJECT
FROM GRANT STREET TO PARKSIDE AVENUE
CITY OF BUFFALO, ERIE COUNTY
PIN 5470.22.121 / PR#13PR03545**

Dear :

In coordination with the Federal Highway Administration (FHWA), the New York State Department of Transportation (NYSDOT) is providing the enclosed documentation as part of the continuing consultation for the NYS Route 198 Scajaquada Corridor project; an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations (36 CFR Part 800).

Consulting parties participating in the Section 106 process are being provided an opportunity to articulate their view on the assessment of effects for the proposed undertaking. Enclosed please find the Section 106 Finding Documentation submitted to the New York State Historic Preservation Office (SHPO) on August 18, 2016. Based on review of the provided information, SHPO has indicated their concurrence that this action will have an **"Adverse Effect"** on archaeological sites located within the project area (August 30, 2016).

To resolve adverse effects, a Memorandum of Agreement (MOA) will be developed in consultation among FHWA, SHPO, NYSDOT, Seneca Nation of Indians (SNI), Tonawanda Seneca Nation (TSN) and Seneca-Cayuga Nation of Oklahoma. Data Recovery is proposed for archaeological sites that may be adversely affected due to disturbance by construction activities. The Draft MOA will also be made available for review by Consulting Parties at a later date.

Please review and provide comments on the Finding Documentation via regular mail to Craig S. Mozrall, Special Projects Manager, NYSDOT, 100 Seneca Street, Buffalo, NY 14203, or via e-mail at Craig.Mozrall@dot.ny.gov, or by phone at (716) 847-3238.

September 16, 2016

Page 2 of 2

We respectfully request your comments by **October 14, 2016**. On behalf of FHWA and NYSDOT, I would like to thank you for your participation in consultation for the Scajaquada Corridor Project.

Sincerely,

"Original Signed by Craig S. Mozrall, P.E."

Craig S. Mozrall, P.E.
Special Projects Manager

CSM/RPJ/bjh

Encl: *Section 106 Finding Documentation, Letter from NY SHPO for the NYS Route 198 Scajaquada Corridor Project (August 30, 2016)*

cc: Robert Davies, District Engineer, FHWA (w/o encl)
Hans Anker, Senior Area Engineer, FHWA (email w/o encl)
Daniel P. Hitt, Director, Office of Environment, NYSDOT, POD 4-1 (w/o encl)

Consulting Parties Mailing List
PIN 5470.22.121 / PR#13PR03545
September 16, 2016

Honorable Byron Brown, Mayor
City of Buffalo
Buffalo City Hall
65 Niagara Square, Room 201
Buffalo, NY 14202

Honorable Mark Poloncarz, Erie County
Executive
Erie County Office Building
95 Franklin Street
Buffalo, NY 14202

Brian Dold
84 Parkside Avenue
Buffalo, NY 14214

Sally Treanor
Buffalo and Erie County Historical
Society
25 Nottingham Court
Buffalo, NY 14216-3119

David Lampe
Delaware Park Steering Committee
73 Crescent Avenue
Buffalo, NY 14214

Dennis Crahen
Forest Lawn Cemetery
1411 Delaware Avenue
Buffalo, NY 14209

Robert J. Kresse, Chairman
Niagara River Greenway Commission
Beaver Island State Park
2136 West Oakfield Road
Grand Island, NY 14072

Bernhard Wagner
Parkside Community Association
2318 Main Street
Buffalo, NY 14214

Cynthia VanNess, President
Preservation Coalition
14 Allen Street
Buffalo, NY 14202-1408

Tania Werbizky, Regional Director
Technical and Grant Programs
Preservation League of New York State
202 The Commons, Suite 302
Ithaca, NY 14850

Monica Pellegrino Faix, M.U.P.
Project Coordinator
c/o The Buffalo News
One News Plaza
PO Box 100
Buffalo, NY 14240

Dr. Janne Siren, Director
Albright-Knox Art Gallery
1285 Elmwood Avenue
Buffalo, NY 14222-1096

Dr. Katherine S. Conway-Turner,
President
SUNY Buffalo State College
1300 Elmwood Avenue
Buffalo, NY 14222

Dr. Donna Fernandes, President/CEO
Buffalo Zoo
300 Parkside Avenue
Buffalo, NY 14214-1963



November 1, 2016

John Bonafide
Director, Bureau of Technical Preservation Services
Division for Historic Preservation
NYS Office of Parks, Recreation & Historic Preservation
P.O. Box 189 - Peebles Island State Park
Waterford, New York 12188-0189

RE: PIN 5470.22
NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
Section 106 Review
OPRHP #13PR03545

Dear Mr. Bonafide:

As part of continuing consultation between the New York State Historic Preservation Office (SHPO), the New York State Department of Transportation (NYSDOT) and the Federal Highway Administration (FHWA) for the NYS Route 198 (Scajaquada Expressway) Corridor Project, the NYSDOT is providing updated information consistent with minor design modification and refinements developed subsequent to the submission of the *Section 106 Finding Documentation* to the SHPO on August 18, 2016.

- As described in the Finding Documentation, the Build Alternative includes the proposed construction of planted medians on NYS Route 198. Medians ten (10) feet or wider will have a four (4) foot or wider area between the top curbs for shrubs and other low plantings in this area of the median. Plant materials will be consistent with Olmsted planting lists to be determined in coordination with the Buffalo Olmsted Parks Conservancy (BOPC).
- To minimize the effects of potential tree removals within the area of disturbance for the Build Alternative in Delaware Park, new plantings will be consistent with Olmsted design principles and plant materials, to be determined in coordination with the BOPC.
- The minor strip taking for a proposed right-of-way acquisition at 23 Agassiz Circle will be avoided. On Parkside Avenue and at the northeast quadrant of Agassiz Circle, the proposed reconstruction of the sidewalk on its existing location may require minor temporary easements from residential properties at 23 Agassiz Circle and at 17 Parkside Avenue, both contributing resources within the National

Register Listed Parkside East Historic District. The temporary easements encompass 0.02 acres at 23 Agassiz Circle and 0.01 acres at 17 Parkside Avenue.

- The proposed eastbound off and on ramps in front of the Albright-Knox Museum have been removed from the project. As a result, impacts to Scajaquada Site 14, an archaeological property determined eligible for the National Register, will be avoided by the project.
- The Lincoln Parkway Bridge (BIN 2260460/USN 02940.003841), a contributing resource within Delaware Park, will not be converted to a pedestrian bridge as described in the Section 106 *Finding Documentation*. The bridge will remain open to vehicular traffic, with no modifications to existing design features or contributing aesthetic elements.
- New, signalized, at-grade pedestrian crossings of NYS Route 198 will be installed at between five and seven locations (which is up to two more than previously proposed).
- These proposed modifications would result in a net increase of 2.6 acres to the park, previously reported as 2.7 acres.

The proposed modifications to the project would cause no new adverse effects that were not previously identified as part of the Section 106 review for the Project. Activities associated with the proposed temporary easements of 0.02 acres at 23 Agassiz Circle and 0.01 acres at 17 Parkside Avenue will not alter the characteristics that qualify these properties as contributing resources, and will not diminish the integrity of the National Register Listed historic district as a whole.

Based on review of the provided information, we respectfully request concurrence that the existing Adverse Effect finding for this undertaking remains valid, including the assessment that the Project will not adversely affect the Parkside East Historic District or contributing resources at 23 Agassiz Circle and 17 Parkside Avenue.

Please contact Jessica Prockup at (518) 417-6642 or Jessica.Prockup@dot.ny.gov if you have questions or would like additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Daniel P. Hitt', is written over a horizontal line.

Daniel P. Hitt, RLA
Director, Office of Environment

DH/lb/ms

cc: R. Davies, FHWA
H. Anker, FHWA
C. Mozrall, Special Projects Manager, NYSDOT Region 5 (electronic)
K. Lorenz, Environmental Program Manager, NYSDOT Region 5 (electronic)
A. Brayman, Cultural Resource Coordinator, NYSDOT Region 5 (electronic)



Parks, Recreation and Historic Preservation

ANDREW M. CUOMO
Governor

ROSE HARVEY
Commissioner

November 3, 2016

Daniel P. Hitt, RLA
Director, Office of Environment
NYS Department of Transportation
50 Wolf Road
Albany, NY 12232

Re: FHWA
NYS Route 198 (Scajaquada Expressway) Corridor Project
Buffalo, Erie County
13PR03545/PIN 5470.22

Dear Mr. Hitt:

Thank you for your agency's ongoing consultation with the New York State Historic Preservation Office (SHPO). We continue to review this undertaking in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources.

Based upon a review of your letter dated November 1, the SHPO concurs with your agency's recommendation to the Federal Highway Administration. We agree that the proposed changes to the project, as outlined in your letter, will not alter or impact any of our previous consultation of determinations for this undertaking.

If I can be of any further assistance please do not hesitate to contact me at (518) 268-2166 or john.bonafide@parks.ny.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Bonafide".

John A. Bonafide
Director,
Technical Preservation Services Bureau
Agency Historic Preservation Officer



Department of Transportation

ANDREW M. CUOMO
Governor

MATTHEW J. DRISCOLL
Commissioner

Cathy Calhoun
Chief of Staff

November 3, 2016

Hans Anker, P.E.
Senior Area Engineer
Federal Highway Administration
New York Division
Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207

RE: PIN 5470.22
NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County
Section 106 Effect Finding
OPRHP #13PR03545

Dear Mr. Anker:

On August 18, 2016, the New York State Department of Transportation (NYSDOT) provided, through submission to the Cultural Resource Information System (CRIS), Finding Documentation for the proposed NYS Route 198 (Scajaquada Expressway) Corridor Project for review by the New York State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act, as amended, and implementing regulations at 36 CFR Part 800: *Protection of Historic Properties*. The Federal Highway Administration (FHWA) was carbon-copied and sent a hard copy of the Finding Documentation.

Following the standards outlined in 36 CFR 800.11(e), the Finding Documentation summarized the assessment of the Project's effects on identified historic properties within the area of potential effects (APE). Applying the Criteria of Adverse Effect (36 CFR Part 800.5(a)), the assessment found the project would have an **Adverse Effect** on identified National Register eligible archeological sites due to the proposed realignment of the road, construction of multi-use paths, and construction of a safety barrier.

The SHPO reviewed the provided documentation and concurred with the finding of Adverse Effect for the project as noted in a letter from the SHPO to the FHWA dated August 30, 2016. Subsequent to receiving the SHPO concurrence, the following steps were carried out in accordance with Section 106 consultation requirements.

- By letter dated August 31, 2016, the FHWA notified the Advisory Council on Historic Preservation (ACHP) of the Adverse Effect finding, provided the specified documentation, and invited the ACHP to participate in consultation to

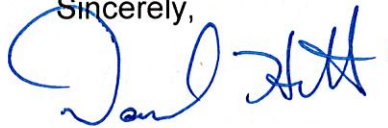
develop a Memorandum of Agreement (MOA) for the Project. We have been advised by the FHWA that the ACHP is not participating in consultation at this time.

- On September 9, 2016, the FHWA provided the Finding Documentation to the Seneca Nation of Indians, the Tonawanda Seneca Nation, and the Seneca Cayuga Tribe of Oklahoma, as an opportunity to offer their views regarding the project's effects on historic properties. The NYSDOT provided the Finding Documentation to other Consulting Parties on September 16, 2016, the start of a thirty (30) day review period. The Consulting Party review period ended on October 14, 2016 with no substantive comments that warrant changes to the existing evaluation or documentation of adverse effects.
- On November 1, 2016, the NYSDOT provided updated information consistent with minor design modification and refinements to the SHPO, with a carbon-copy to the FHWA. In a letter dated November 3, 2016 (attached), the SHPO agreed that the proposed changes to the project, as outlined in the November 1st letter, "...will not alter or impact any of our previous consultation of determinations for this undertaking."

Based on the above-referenced documentation and summary of consultation, we respectfully request the FHWA to issue an Adverse Effect determination for the Project, and approval to move forward with the development of a Draft MOA for the resolution of adverse effects on archaeological properties.

Please contact Jessica Prockup at (518) 417-6642 or Jessica.Prockup@dot.ny.gov if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Hitt", is written over the word "Sincerely,".

Daniel P. Hitt, RLA
Director, Office of Environment

DH/lb/ms

Encl: November 3, 2016 Letter from NY State Historic Preservation Office for the NYS Rte 198 Scajaquada Corridor Project (PIN 5470.22, 13PR03545)

cc: R. Davies, District Engineer, FHWA (w/out encl)
C. Mozrall, Special Projects Manager, NYSDOT Region 5 (w/out encl)
K. Lorenz, Environmental Program Manager, NYSDOT Region 5 (w/out encl)
A. Brayman, Cultural Resource Coordinator, NYSDOT Region 5 (w/out encl)



U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

November 3, 2016

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
New York.FHWA@dot.gov

In Reply Refer To:
HED-NY

Mr. Daniel Hitt
Director, Office of Environment
New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

Subject: Section 106 Effect Finding
PIN 5470.22 NYS Route 198 (Scajaquada Expressway) Corridor Project
City of Buffalo, Erie County

Mr. Hitt,
Please reference your November 3 letter requesting our concurrence that the proposed undertaking will have an *Adverse Effect* on properties listed or eligible for listing on the National Register of Historic Places. You notified the State Historic Preservation Officer (SHPO) on August 18 and November 1 of your recommendation, and they concurred on November 3.

We concur that the proposed undertaking will have an *Adverse Effect*. A letter was sent to the Advisory Council on Historic Preservation (ACHP) on August 31 for coordination on this project.

Please proceed with the development of a Memorandum of Agreement between SHPO, NYSDOT, and FHWA. Should ACHP coordination become necessary, we will inform you via phone and/or email correspondence.

If you have any questions, please contact me at (518) 431-8896.

Sincerely,

Hans Anker, P.E.
Senior Area Engineer

cc: Craig Mozrall, NYSDOT R5
Ruth Pierpont, OPRHP
Peter Dunleavy, Office of Environment, NYSDOT, POD #41



Preserving America's Heritage

November 16, 2016

Mr. Hans Anker, P.E.
Senior Area Engineer
Federal Highway Administration
New York Division
Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207

Ref: *Proposed NYS Route 198 (Scajaquada Expressway) Corridor Project*
City of Buffalo, Erie County, New York

Dear Mr. Anker:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the New York State Historic Preservation Office (SHPO), and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA, and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact Christopher Wilson at 202-517- 0229 or via e-mail at cwilson@achp.gov.

Sincerely,

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs